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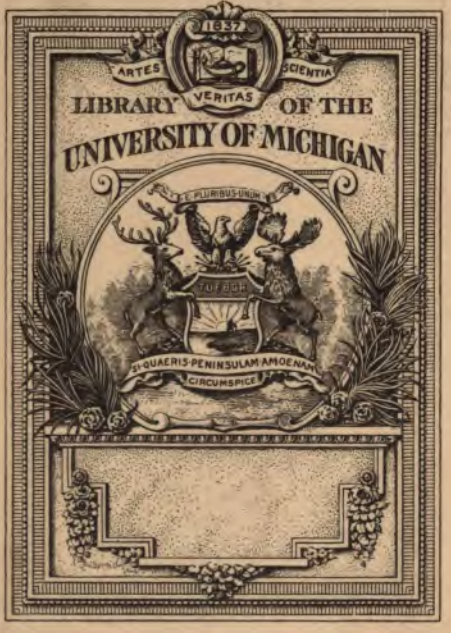
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WISCONSIN

ITS STATE AND LOCAL GOVERNMENT WITH THE CONSTITUTION AS AMENDED

BY

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WISCONSIN

ITS STATE AND LOCAL GOVERNMENT

WITH THE

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TO TEACHERS

HELPS TO THE STUDY OF CIVIL GOVERNMENT

This supplement is prepared as an aid to teachers in making the young people of Wisconsin acquainted with their State, its forms of government, and institutions. Necessarily, the various topics are treated with brevity, though, it is hoped, with sufficient thoroughness to suggest the way in which the whole work had best be taught by an interested and competent teacher.

Whatever the pupil knows of the workings of local forms of government should be utilized constantly. He should be encouraged and directed to learn more by observation. Among the aids to this end, accessible to the ordinary teacher, the following are suggested:

1. The newspapers; party calls for the holding of caucuses and conventions; election notices; sample ballots; reports of court proceedings; reports of proceedings of town boards, county boards, and city councils, etc.
2. A copy of the Blue Book.
3. A copy of the Railroad Map of Wisconsin.
4. A copy of the Election Laws.
5. A copy of the School Laws.
6. A copy of the State Census Report.
7. Copies of the reports of the various state institutions.
8. Reports of the state officers, especially of the Secretary of State and the State Treasurer.

The Annotated Statutes, the County History, Thwaites' Story of Wisconsin, the standard U. S. Histories, and the great Cyclopædias, when they can be had, should also be used freely.

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WISCONSIN

ITS GOVERNMENT AND CONSTITUTION

CHAPTER I.—INTRODUCTORY

1. **History**—Wisconsin, the youngest of the five great States formed from the "Territory of the United States northwest of the river Ohio," was admitted into the Union May 29, 1848. By the provisions of the famous Ordinance of 1787, the southern boundary of Wisconsin should have been, "an east and west line, drawn through the southern bend or extreme of Lake Michigan." On the northwest, all that valuable territory between the Mississippi, the St. Croix, and the boundary line between the United States and Canada, as far west as the Lake of the Woods, belonged, of right, to Wisconsin. So, too, did the upper peninsula of Michigan on the northeast. If Wisconsin had had her own, Chicago, St. Paul, Duluth, a large part of Minneapolis, and many other smaller cities, would have been hers.

2. **Rank and Resources**—The story of how Wisconsin was clipped of her territory is very interesting history, but this is not the place to tell it. Wisconsin, as she is, is a great State. By the census of 1895, she has very nearly two million inhabitants (1,937,915). She is the fourteenth State in the Union, in population. She has vast and varied natural resources, still, in great part, undeveloped; a healthful, stimulating climate; an ad-

mirable school system; good laws, honestly and faithfully administered; and an intelligent, progressive, patriotic people.

3. A Cosmopolitan State—Wisconsin is a cosmopolitan state. The lead regions early attracted people from the east and from the States bordering on the Ohio. Kentuckians were very numerous. They have left their impress upon the speech and customs of the people of these regions, and upon the institutions of the State. A very large part of the native-born population is of New England origin—people who tarried a while in western New York and Ohio on their way westward. During the constitution-making period, this element was the dominant one. Of the sixty-nine members of the convention that framed the constitution, twenty-five were natives of New York. And so it came to pass that the constitution was modeled after the constitution of New York, and not, as seemed probable earlier, after that of Kentucky.

4. The Germans—In Milwaukee County, and all the other eastern counties, and in many other portions of the State, the Germans have settled in very large numbers. The history of their immigration into Wisconsin is extremely interesting. That great movement of population was thoroughly organized. Settlements were made only after most careful and wise selection. Many of the settlers were people of high intelligence and culture. They came early, and their influence has been felt profoundly, in all the lines of the State's growth and development.

5. The British and Irish—The British and Irish are numerous, widely diffused, and influential. Their names *appear in* the lists of governors, statesmen, jurists, mer-

chants, bankers, educators, and members of every other honorable calling.

6. Other Foreigners—In Milwaukee and a few other places, the Polish element is strong. Scandinavians are numerous and influential in the lumbering regions and elsewhere. The Swiss are strong and prosperous in Green County. There are Frenchmen, Hollanders, Italians and other foreign elements, but not in such large numbers as those already enumerated.

7. Effects upon the State—As has been seen, the elements of the population are very various. They differ very widely in nationality, social customs and religious beliefs. To this fact is due certain striking peculiarities in the constitution and laws, such as the strict exclusion of sectarian instruction from the public schools, and the extremely liberal provisions regarding the rights of suffrage, office-holding, and the ownership of land.

CHAPTER II.—DISTINGUISHING CHARACTERISTICS OF THE AMERICAN SYSTEM OF GOVERNMENT

1. The American System.—In beginning the study of the constitution of his State, the student must keep clearly in mind the chief characteristics of the American form of government. Every citizen of Wisconsin is subject to two governments, that of the State and that of the United States. These two governments are organically interrelated. The State government presupposes the United States government. The United States government presupposes the State government. The student cannot understand the State government unless he understands the United States government, nor the United States government unless he understands the State

government. He has many duties, rights, privileges and immunities. Some of these arise out of his United States citizenship; others out of his State citizenship. The United States government and the separate State governments, together, form one government which may well be called the American system.

2. Its Chief Characteristics—As distinguished from most other governments of the world the American system presents these characteristics:—

a. The recognition of the people as the source of all power.

b. A very strong central government, with supreme authority, in certain well-defined and carefully guarded fields.

c. The universal application of the principle of local self-government.

d. As between the central government and the separate State governments, the extremely large range of powers left to the separate States, with which the United States have nothing whatever to do.

e. Written constitutions, defining and limiting the powers of the government, particularly the legislative powers.

CHAPTER III.—CONSTITUTION OF THE STATE OF WISCONSIN

AS AMENDED

PREAMBLE

1 We, the people of Wisconsin, grateful to Almighty God for our freedom, in order to secure its blessings, form a more perfect government, insure domestic tranquillity, and promote the general welfare, do establish this Constitution.

ARTICLE I

DECLARATION OF RIGHTS

2 SECTION 1. All men are born equally free and independent, and have certain inherent rights; among these are life, liberty, and the pursuit of happiness. To secure these rights governments are instituted among men, deriving their just powers from the consent of the governed.

3 SECTION 2. There shall be neither slavery nor involuntary servitude in this State otherwise than for the punishment for crime, whereof the party shall have been duly convicted.

4 SECTION 3. Every person may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right, and no laws shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions or indictments for libel, the truth may be given in evidence; and if it shall appear to the jury that the matter charged as libelous be true, and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the facts.

5 SECTION 4. The right of the people peaceably to assemble to consult for the common good, and to petition the government or any department thereof shall never be abridged.

6 SECTION 5. The right of trial by jury shall remain inviolate, and shall extend to all cases at law, without regard to the amount in controversy; but a jury trial may be waived by the parties in all cases in the manner prescribed by law.

7 SECTION 6. Excessive bail shall not be required, nor shall excessive fines be imposed, nor cruel and unusual punishment be inflicted.

8 SECTION 7. In all criminal prosecutions the accused shall enjoy the right to be heard by himself and counsel; to demand the nature and cause of the accusation against him; to meet the witnesses face to face; to have compulsory process to compel the attendance of witnesses in his behalf; and in prosecutions by indictment or information, to a speedy public trial by an impartial jury of the county or district where-

in the offense shall have been committed; which county or district shall have been previously ascertained by law.

9 SECTION 8. (As amended Nov. 8, 1870.) No person shall be held to answer for a criminal offense without due process of law, and no person for the same offense shall be put twice in jeopardy of punishment, nor shall be compelled in any criminal case to be a witness against himself. All persons shall before conviction be bailable by sufficient sureties, except for capital offenses, when the proof is evident or the presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

10 SECTION 9. Every person is entitled to a certain remedy in the laws, for all injuries or wrongs he may receive in his person, property, or character; he ought to obtain justice freely, and without being obliged to purchase it, completely and without denial, promptly and without delay, conformably to the laws.

11 SECTION 10. Treason against the State shall consist only in levying war against the same, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

12 SECTION 11. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

13 SECTION 12. No bill of attainder, *ex post facto* law, nor any law impairing the obligation of contracts, shall ever be passed; and no conviction shall work corruption of blood or forfeiture of estate.

14 SECTION 13. The property of no person shall be taken for public use without just compensation therefor.

15 SECTION 14. All lands within the State are declared to be allodial, and feudal tenures are prohibited. Leases and grants of agricultural land, for a longer term than fifteen years, in which rent or service of any kind shall be reserved, and all fines and like restraints upon alienation, reserved in any grant of land hereafter made, are declared to be void.

16 SECTION 15. No distinction shall ever be made by law between resident aliens and citizens, in reference to the possession, enjoyment, or descent of property.

17 SECTION 16. No person shall be imprisoned for debt arising out of, or founded on a contract, expressed or implied.

18 SECTION 17. The privilege of the debtor to enjoy the necessary comforts of life shall be recognized by wholesome laws, exempting a reasonable amount of property from seizure or sale for the payment of any debt or liability hereafter contracted.

19 SECTION 18. The right of every man to worship Almighty God according to the dictates of his own conscience shall never be infringed, nor shall any man be compelled to attend, erect, or support any place of worship, or to maintain any ministry, against his consent. Nor shall any control of or interference with the rights of conscience be permitted, or any preference be given by law to any religious establishments or

mode of worship Nor shall any money be drawn from the treasury for the benefit of religious societies, or religious or theological seminaries.

20 SECTION 19. No religious tests shall ever be required as a qualification for any office of public trust, under the State, and no person shall be rendered incompetent to give evidence in any court of law or equity, in consequence of his opinions on the subject of religion.

21 SECTION 20. The military shall be in strict subordination to the civil power.

22 SECTION 21. Writs of error shall never be prohibited by law.

23 SECTION 22. The blessings of a free government can only be maintained by a firm adherence to justice, moderation, temperance, frugality and virtue, and by frequent recurrence to fundamental principles.

ARTICLE II

BOUNDARIES

24 SECTION 1. It is hereby ordained and declared that the State of Wisconsin doth consent and accept of the boundaries prescribed in the act of Congress entitled "an act to enable the people of Wisconsin Territory to form a Constitution and State Government, and for the admission of such State into the Union;" approved August sixth, one thousand eight hundred and forty-six, to wit: beginning at the northeast corner of the State of Illinois, that is to say, at a point in the center of Lake Michigan where the line of forty-two degrees and thirty minutes of north latitude crosses the same; thence, running with the boundary of the State of Michigan, through Lake Michigan, Green Bay, to the mouth of the Menomonee river; thence up the channel of the said river to the Brule river; thence up said last mentioned river to Lake Brule; thence along the southern shore of Lake Brule, in a direct line to the center of the channel between Middle and South Islands, in the Lake of the Desert; thence in a direct line to the head waters of the Montreal river, as marked upon the survey made by Captain Cram; thence down the main channel of the Montreal river to the middle of Lake Superior; thence through the center of lake Superior to the mouth of the St. Louis river; thence up the main channel of said river to the first rapids in the same, above the Indian village, according to Nicollet's map; thence due south to the main branch of the river St. Croix; thence down the main channel of said river to the Mississippi; thence down the center of the main channel of that river to the northwest corner of the State of Illinois; thence due east with the northern boundary of the State of Illinois, to the place of beginning. * * * *

25 SECTION 2. The propositions contained in the act of Congress are hereby accepted, ratified and confirmed, and shall remain irrevocable without the consent of the United States; and it is hereby ordained that this State shall never interfere with the primary disposition of the soil within the same, by the United States, nor with any regulations Congress may find necessary for securing the title in such soil to *bona fide* purchasers thereof; and no tax shall be imposed on land the property of the United States; and in no case shall non-resident proprietors be taxed higher than residents. *Provided*, That nothing in this Constitution, or in the act of Congress aforesaid, shall in any manner prejudice

or affect the right of the State of Wisconsin to five hundred thousand acres of land granted to said State, and to be hereafter selected and located, by and under the act of Congress, entitled "an act to appropriate the proceeds of sales of the public lands, and grant pre-emption rights," approved September fourth, one thousand eight hundred and forty-one.

ARTICLE III

SUFFRAGE

26 SECTION 1. (As amended Nov. 7, 1882). Every male person of the age of twenty-one years or upwards belonging to either of the following classes who shall have resided within the State for one year next preceding any election, and in the election district where he offers to vote, such time as may be prescribed by the Legislature, not exceeding thirty days, shall be deemed a qualified elector at such election.

1. Citizens of the United States.

2. Persons of foreign birth who shall have declared their intention to become citizens conformably to the laws of the United States on the subject of naturalization.

3. Persons of Indian blood who have once been declared by law of con gress to be citizens of the United States, any subsequent law of congress to the contrary notwithstanding.

4. Civilized persons of Indian descent not members of any tribe; *provided*, that the legislature may at any time extend by law the right of suffrage to persons not herein enumerated; but no such law shall be in force until the same shall have been submitted to a vote of the people at a general election and approved by a majority of all the votes cast at such election; *and provided further*, that in incorporated cities and villages, the legislature may provide for the registration of electors and prescribe proper rules and regulations therefor.

27 SECTION 2. No person under guardianship, *non compos mentis*, or insane, shall be qualified to vote at any election; nor shall any person convicted of treason or felony be qualified to vote at any election unless restored to civil rights.

28 SECTION 3. All votes shall be given by ballot, except for such township officers as may by law be directed or allowed to be otherwise chosen.

29 SECTION 4. No person shall be deemed to have lost his residence in this State by reason of his absence on business of the United States, or of this State.

30 SECTION 5. No soldier, seaman, or marine, in the army or navy of the United States shall be deemed a resident of this State in consequence of being stationed within the same.

31 SECTION 6. Laws may be passed excluding from the right of suffrage all persons who have been or may be convicted of bribery or larceny, or of any infamous crime, and depriving every person who shall make, or become directly or indirectly interested in, any bet or wager depending upon the result of any election, from the right to vote at such election.

ARTICLE IV

LEGISLATIVE

SECTION 1. The legislative power shall be vested in a Senate and Assembly.

SECTION 2. The number of the members of the Assembly shall never be less than fifty-four, nor more than one hundred. The Senate shall consist of a number not more than one-third, nor less than one-fourth, of the number of the members of the Assembly.

SECTION 3. The Legislature shall provide by law for an enumeration of the inhabitants of the State, in the year one thousand eight hundred and fifty-five, and at the end of every ten years thereafter; and at their first session after such enumeration, and also after each enumeration made by the authority of the United States, the Legislature shall apportion and district anew the members of the Senate and Assembly, according to the number of inhabitants, excluding Indians not taxed, and soldiers and officers of the United States army and navy.

SECTION 4. (As amended Nov. 8, 1881.) The members of the Assembly shall be chosen biennially, by single districts on the Tuesday succeeding the first Monday of November after the adoption of this amendment, by the qualified electors of the several districts; such districts to be bounded by county, precinct, town or ward lines, to consist of contiguous territory, and be in as compact form as practicable.

SECTION 5. (As amended Nov. 8, 1881.) The senators shall be elected by single districts of convenient contiguous territory, at the same time, and in the same manner as members of the assembly are required to be chosen, and no assembly district shall be divided in the formation of a senate district. The senate districts shall be numbered in the regular series, and the senators shall be chosen alternately from the odd and even numbered districts. The senators elected, or holding over at the time of the adoption of this amendment, shall continue in office till their successors are duly elected and qualified; and after the adoption of this amendment, all senators shall be chosen for the term of four years.

SECTION 6. No person shall be eligible to the Legislature who shall not have resided one year within the State, and be a qualified elector in the district which he may be chosen to represent.

SECTION 7. Each House shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day and may compel the attendance of absent members, in such manner and under such penalties as each House may provide.

SECTION 8. Each House may determine the rules of its own proceedings, punish for contempt and disorderly behavior, and with the concurrence of two-thirds of all the members elected, expel a member; but no member shall be expelled a second time for the same cause.

SECTION 9. Each House shall choose its own officers, and the Senate shall choose a temporary President, when the Lieutenant Governor shall not attend as President, or shall act as Governor.

41 SECTION 10. Each House shall keep a journal of its proceedings, and publish the same, except such parts as require secrecy. The doors of each House shall be kept open except when the public welfare shall require secrecy. Neither House shall, without the consent of the other, adjourn for more than three days.

42 SECTION 11. (As amended Nov. 8, 1881.) The legislature shall meet at the seat of government at such times as shall be provided by law, once in two years and no oftener, unless convened by the governor in special session, and when so convened no business shall be transacted except as shall be necessary to accomplish the special purposes for which it was convened.

43 SECTION 12. No member of the Legislature shall, during the term for which he was elected, be appointed or elected to any civil office in the State which shall have been created, or the emoluments of which shall have been increased, during the term for which he was elected.

44 SECTION 13. No person being a member of Congress, or holding any military or civil office under the United States, shall be eligible to a seat in the Legislature; and if any person shall, after his election as a member of the Legislature, be elected to Congress, or be appointed to any office, civil or military, under the Government of the United States, his acceptance thereof shall vacate his seat.

45 SECTION 14. The Governor shall issue writs of election to fill such vacancies as may occur in either House of the Legislature.

46 SECTION 15. Members of the Legislature shall, in all cases except treason, felony, and breach of the peace, be privileged from arrest; nor shall they be subject to any civil process, during the session of the Legislature, nor for fifteen days next before the commencement and after the termination of each session.

47 SECTION 16. No member of the Legislature shall be liable in any civil action or criminal prosecution whatever, for words spoken in debate.

48 SECTION 17. The style of the laws of the State shall be, "The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows," and no law shall be enacted except by bill.

49 SECTION 18. No private or local bill, which may be passed by the Legislature, shall embrace more than one subject, and that shall be expressed in the title.

50 SECTION 19. Any bill may originate in either House of the Legislature; and a bill passed by one House may be amended by the other.

51 SECTION 20. The yeas and nays of the members of either House, on any question, shall, at the request of one-sixth of those present, be entered on the journal.

52 SECTION 21. (As amended Nov. 8, 1881.) Each member of the Legislature shall receive for his services, for and during a regular session, the sum of five hundred dollars, and ten cents for every mile he shall travel in going to and returning from the place of meeting of the Legislature on the most usual route In case of an extra session of the Legislature, no additional compensation shall be allowed to any member thereof, either directly or indirectly, except for mileage, to be computed at the same rate as for a regular session. No stationery, newspapers, postage or other perquisite, except the salary and mileage

above provided, shall be received from the state by any member of the Legislature for his services, or in any other manner as such member.

53 SECTION 22. The Legislature may confer upon the Board of Supervisors of the several counties of the State, such powers, of a local, legislative, and administrative character, as they shall from time to time prescribe.

54 SECTION 23. The Legislature shall establish but one system of town and county government, which shall be as nearly uniform as practicable.

55 SECTION 24. The Legislature shall never authorize any lottery, or grant any divorce.

56 SECTION 25. The Legislature shall provide by law that all stationery required for the use of the State, and all printing authorized and required by them to be done for their use, or for the State, shall be let by contract to the lowest bidder; but the Legislature may establish a maximum price. No member of the Legislature, or other State officer, shall be interested, either directly or indirectly, in any such contract.

57 SECTION 26. The Legislature shall never grant any extra compensation to any public officer, agent, servant, or contractor, after the service shall have been rendered or the contract entered into. Nor shall the compensation of any public officer be increased or diminished during his term of office.

58 SECTION 27. The Legislature shall direct by law in what manner and in what court suit may be brought against the State.

59 SECTION 28. Members of the Legislature, and all officers, executive and judicial, except such inferior officers as may be by law exempted, shall, before they enter upon the duties of their respective offices, take and subscribe an oath or affirmation to support the Constitution of the United States, and the Constitution of the State of Wisconsin, and faithfully to discharge the duties of their respective offices to the best of their ability.

60 SECTION 29. The Legislature shall determine what persons shall constitute the militia of the State, and may provide for organizing and disciplining the same, in such manner as shall be prescribed by law.

61 SECTION 30. In all elections to be made by the Legislature, the members thereof shall vote *viva voce*, and their votes shall be entered on the journal.

62 SECTION 31. (Added Nov. 7, 1871, the word city inserted in 9th subdivision, Nov. 8, 1892.) The Legislature is prohibited from enacting any special or private laws in the following cases: 1st. For changing the name of persons or constituting one person the heir-at-law of another. 2d. For laying out, opening or altering highways, except in cases of State roads extending into more than one county, and military roads to aid in the construction of which lands may be granted by Congress. 3d. For authorizing persons to keep ferries across streams, at points wholly within this State. 4th. For authorizing the sale or mortgage of real or personal property of minors or others under disability. 5th. For locating or changing any county seat. 6th. For assessment or collection of taxes or for extending the time for collection thereof. 7th. For granting corporate powers or privileges, except to cities. 8th. For authorizing the apportionment of any part of the school fund. 9th. For

incorporating any city, town or village, or to amend the charter thereof.

63 SECTION 32. (Added Nov. 7, 1871.) The Legislature shall provide general laws for the transaction of any business that may be prohibited by section thirty-one of this article, and all such laws shall be uniform in their operations throughout the State.

ARTICLE V

EXECUTIVE

64 SECTION 1. The executive power shall be vested in a Governor who shall hold his office for two years. A Lieutenant Governor shall be elected at the same time, and for the same term.

65 SECTION 2. No person, except a citizen of the United States, and a qualified elector of the State shall be eligible to the office of Governor or Lieutenant Governor.

66 SECTION 3. The Governor and Lieutenant Governor shall be elected by the qualified electors of the State at the times and places of choosing members of the Legislature. The persons respectively having the highest number of votes for Governor and Lieutenant Governor shall be elected. But in case two or more shall have an equal and the highest number of votes for Governor or Lieutenant Governor, the two Houses of the Legislature, at its next annual session, shall forthwith, by joint ballot, choose one of the persons so having an equal and the highest number of votes for Governor or Lieutenant Governor. The returns of election for Governor and Lieutenant Governor shall be made in such manner as shall be provided by law.

67 SECTION 4. The Governor shall be Commander-in-Chief of the military and naval forces of the State. He shall have the power to convene the Legislature on extraordinary occasions; and in case of invasion, or danger from the prevalence of contagious disease at the seat of the Government, he may convene them at any other suitable place within the State. He shall communicate to the Legislature, at every session, the condition of the State, and recommend such matter to them for their consideration, as he may deem expedient. He shall transact all necessary business with the officers of the Government, civil and military. He shall expedite all such measures, as may be resolved upon by the Legislature, and shall take care that the laws be faithfully executed.

68 SECTION 5. (As amended Nov. 2, 1869.) The Governor shall receive during his continuance in office, an annual compensation of five thousand dollars, which shall be in full for all traveling or other expenses incident to his duties.

69 SECTION 6. The Governor shall have power to grant reprieves, commutations, and pardons, after conviction, for all offenses except treason and cases of impeachment, upon such conditions and with such restrictions and limitations as he may think proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons. Upon conviction for treason, he shall have the power to suspend the execution of the sentence until the case shall be reported to the Legislature, at its next meeting, when the Legislature shall either pardon, or commute the sentence, direct the execution of the sentence

or grant a further reprieve. He shall annually communicate to the Legislature each case of reprieve, commutation or pardon granted, stating the name of the convict, the crime of which he was convicted, the sentence and its date, and the date of the commutation, pardon, or reprieve, with his reasons for granting the same.

70 SECTION 7. In case of the impeachment of the Governor, or his removal from office, death, inability from mental or physical disease, resignation, or absence from the State, the powers and duties of the office shall devolve upon the Lieutenant Governor, for the residue of the term, or until the Governor, absent or impeached, shall have returned, or the disability shall cease. But when the Governor shall, with the consent of the Legislature, be out of the State in time of war, at the head of the military force thereof, he shall continue Commander-in-Chief of the military force of the State.

71 SECTION 8. The Lieutenant Governor shall be President of the Senate, but shall have only a casting vote therein. If, during a vacancy in the office of Governor, the Lieutenant Governor shall be impeached, displaced, resign, die, or from mental or physical disease become incapable of performing the duties of his office, or be absent from the State, the Secretary of State shall act as Governor until the vacancy shall be filled, or the disability shall cease.

72 SECTION 9. (As amended Nov. 2, 1869.) The Lieutenant Governor shall receive during his continuance in office, an annual compensation of one thousand dollars.

73 SECTION 10. Every bill which shall have passed the Legislature shall, before it becomes a law, be presented to the governor. If he approve, he shall sign it; but if not, he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large upon the journal and proceed to reconsider it. If, after such reconsideration, two-thirds of the members present shall agree to pass the bill, it shall be sent, together with the objections to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of the members present, it shall become a law. But in all such cases, the votes of both Houses shall be determined by yeas and nays, and the names of the members voting for or against the bill shall be entered on the journal of each House respectively. If any bill shall not be returned by the Governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law, unless the Legislature shall, by their adjournment, prevent its return; in which case it shall not be a law.

ARTICLE VI

ADMINISTRATIVE

74 SECTION 1. There shall be chosen by the qualified electors of the State, at the times and places of choosing the members of the Legislature, a Secretary of State, Treasurer, and Attorney-General, who shall severally hold their offices for the term of two years.

75 SECTION 2. The Secretary of State shall keep a fair record of the official acts of the Legislature and Executive Department of the State, and shall, when required, lay the same and all matters relative thereto

before either branch of the Legislature. He shall be *ex officio* auditor, and shall perform such other duties as shall be assigned him by law. He shall receive as a compensation for his services, yearly, such sum as shall be provided by law, and shall keep his office at the seat of government.

76 SECTION 3. The powers, duties and compensation of the Treasurer and Attorney-General shall be prescribed by law.

77 SECTION 4. (As amended Nov. 7, 1882). Sheriffs, coroners, registers of deeds, district attorneys, and all other county officers, except judicial officers, shall be chosen by the electors of the respective counties, once in every two years. Sheriffs shall hold no other office, and be ineligible for two years next succeeding the termination of their offices; they may be required by law to renew their security from time to time, and in default of giving such new security their offices shall be deemed vacant, but the county shall never be made responsible for the acts of the sheriff. The Governor may remove any officer in this section mentioned, giving to such a copy of the charges against him and an opportunity of being heard in his defense. All vacancies shall be filled by appointment, and the person appointed to fill a vacancy shall hold only for the unexpired portion of the term to which he shall be appointed and until his successor shall be elected and qualified.

ARTICLE VII

JUDICIARY

78 SECTION 1. The court for the trial of impeachments shall be composed of the Senate. The House of Representatives shall have the power of impeaching all civil officers of this State, for corrupt conduct in office, or for crimes and misdemeanors; but a majority of all the members elected shall concur in an impeachment. On the trial of an impeachment against the Governor, the Lieutenant Governor shall not act as a member of the court. No judicial officer shall exercise his office after he shall have been impeached, until his acquittal. Before the trial of an impeachment, the members of the court shall take an oath or affirmation truly and impartially to try the impeachment, according to evidence; and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment in cases of impeachment shall not extend further than to removal from office, or removal from office and disqualification to hold any office of honor, profit or trust, under the State; but the party impeached shall be liable to indictment, trial and punishment according to law.

79 SECTION 2. The judicial power of this State, both as to matters of law and equity, shall be vested in a Supreme Court, Circuit Courts, Courts of Probate, and in Justices of the Peace. The Legislature may also vest such jurisdiction as shall be deemed necessary in Municipal Courts and shall have power to establish inferior courts in the several counties, with limited civil and criminal jurisdiction. *Provided*, that the jurisdiction which may be vested in Municipal Courts shall not exceed, in their respective municipalities, that of Circuit Courts in their respective circuits, as prescribed in this Constitution; and that the Legislature shall provide as well for the election of judges of the Municipal Courts as of

the judges of inferior Courts, by the qualified electors of the respective jurisdictions. The term of office of the judges of the said Municipal and inferior courts shall not be longer than that of the judges of the Circuit Courts.

80 SECTION 3. The Supreme Court, except in cases otherwise provided in this Constitution, shall have appellate jurisdiction only, which shall be co-extensive with the State; but in no case removed to the Supreme Court, shall a trial by jury be allowed. The Supreme Court shall have a general superintending control over all inferior courts; it shall have power to issue writs of habeas corpus, mandamus, injunction, quo warranto, certiorari and other original and remedial writs, and to hear and determine the same.

81 SECTION 4. (As amended Nov. 7, 1882.) The supreme court shall consist of one chief justice and four associate justices, to be elected by the qualified electors of the State. The Legislature shall, at its first session after the adoption of this amendment, provide by law for the election of two associate justices of said court, to hold their offices for terms ending two and four years respectively, after the end of the term of the justice of the said court then last to expire. And thereafter the chief justice and associate justices of the said court shall be elected and hold their offices respectively for the term of ten years.

82 SECTION 4. (As amended April 2, 1892.) The chief justice and associate justices of the supreme court shall be severally known as justices of said court with the same terms of office, respectively, as now provided. The supreme court shall consist of five justices (any three of whom shall be a quorum), to be elected as now provided. The justice having been longest a continuous member of the court (or in case of two or more of such senior justices having served for the same length of time, then the one whose commission first expires), shall be ex-officio the chief justice.

83 SECTION 5. (*Provides for first division of the State into judicial districts.*)

84 SECTION 6. The Legislature may alter the limits, or increase the number of circuits, making them as compact and convenient as practicable, and bounding them by county lines, but no such alteration or increase shall have the effect to remove a judge from office. In case of an increase of circuits, the judge or judges shall be elected as provided in this Constitution, and receive a salary not less than that herein provided for judges of the Circuit Court.

85 SECTION 7. For each circuit there shall be a judge chosen by the qualified electors therein, who shall hold his office as is provided in this Constitution, and until his successor shall be chosen and qualified; and after he shall have been elected, he shall reside in the circuit for which he was elected. * * * *

86 SECTION 8. The Circuit Courts shall have original jurisdiction in all matters, civil and criminal, within this State, not excepted in this Constitution, and not hereafter prohibited by law, and appellate jurisdiction from all inferior courts and tribunals, and a supervisory control over the same. They shall also have the power to issue writs of habeas corpus, mandamus, injunction, quo warranto, certiorari, and all other writs necessary to carry into effect their orders, judgments and de-

crees, and give them a general control over inferior courts and jurisdictions.

87 SECTION 9. When a vacancy shall happen in the office of Judge of the Supreme or Circuit Courts, such vacancy shall be filled by an appointment of the Governor, which shall continue until a successor is elected and qualified; and when elected, such successor shall hold his office the residue of the unexpired term. There shall be no election for a judge or judges at any general election for State or county officers, nor within thirty days either before or after such election.

88 SECTION 10. Each of the Judges of the Supreme and Circuit Courts shall receive a salary, payable quarterly, of not less than one thousand five hundred dollars annually; they shall receive no fees of office, or other compensation than their salaries; they shall hold no office of public trust, except a judicial office, during the term for which they are respectively elected, and all votes for either of them, for any office except a judicial office given by the Legislature or the people, shall be void. No person shall be eligible to the office of Judge, who shall not, at the time of his election, be a citizen of the United States, and have attained the age of twenty-five years, and be a qualified elector within the jurisdiction for which he may be chosen.

89 SECTION 11. The Supreme Court shall hold at least one term annually, at the seat of government of the State, at such time as shall be provided by law, and the Legislature may provide for holding other terms, and at other places, when they may deem it necessary. A Circuit Court shall be held at least twice in each year, in each county of this State, organized for judicial purposes. The judges of the circuit court may hold courts for each other, and shall do so when required by law.

90 SECTION 12. (As amended Nov. 7, 1882.) There shall be a clerk of the Circuit Court chosen in each county organized for judicial purposes, by the qualified electors thereof, who shall hold his office for two years, subject to removal, as shall be provided by law. In case of a vacancy, the Judge of the Circuit Court shall have power to appoint a clerk, until the vacancy shall be filled by an election. The clerk thus elected or appointed shall give such security as the Legislature may require. The Supreme Court shall appoint its own Clerk, and the Clerk of a Circuit Court may be appointed Clerk of the Supreme Court.

91 SECTION 13. Any Judge of the Supreme or Circuit Court may be removed from office by address of both Houses of the Legislature, if two-thirds of all the members elected to each House concur therein, but no removal shall be made by virtue of this section, unless the judge complained of shall have been served with a copy of the charges against him as the ground of address, and shall have had an opportunity of being heard in his defense. On the question of removal, the ayes and noes shall be entered on the journals.

92 SECTION 14. There shall be chosen in each county, by the qualified electors thereof, a Judge of Probate, who shall hold his office for two years, and until his successor shall be elected and qualified, and whose jurisdiction, powers and duties shall be prescribed by law. *Provided, however*, That the Legislature shall have power to abolish the office of Judge of Probate in any county, and to confer probate powers upon such inferior courts as may be established in said county.

93 SECTION 15. The electors of the several towns, at their annual town meetings, and the electors of cities and villages, at their charter elections, shall in such manner as the Legislature may direct, elect justices of the peace, whose term of office shall be for two years, and until their successors in office shall be elected and qualified. In case of an election to fill a vacancy occurring before the expiration of a full term, the justice elected shall hold for the residue of the unexpired term. Their number and classifications shall be regulated by law. And the tenure of two years shall in no wise interfere with the classification in the first instance. The justices thus elected shall have such civil and criminal jurisdiction as shall be prescribed by law.

94 SECTION 16. The Legislature shall pass laws for the regulation of tribunals of conciliation, defining their powers and duties. Such tribunals may be established in and for any township, and shall have power to render judgment, to be obligatory on the parties, when they shall voluntarily submit their matter in difference to arbitration, and agree to abide the judgment, or assent thereto in writing.

95 SECTION 17. The style of all writs and process shall be, "The State of Wisconsin." All criminal prosecutions shall be carried on in the name and by the authority of the same; and all indictments shall conclude against the peace and dignity of the State.

96 SECTION 18. The Legislature shall impose a tax on all civil suits commenced or prosecuted in the municipal, inferior, or circuit courts, which shall constitute a fund to be applied toward the payment of the salary of the judges.

97 SECTION 19. The testimony in causes in equity shall be taken in like manner as in cases at law; and the office of master in chancery is hereby prohibited.

98 SECTION 20. Any suitor in any court in this State shall have the right to prosecute or defend his suit either in his own proper person or by an attorney or agent of his choice.

99 SECTION 21. The Legislature shall provide by law for the speedy publication of all statute laws, and of such judicial decisions made within the State, as may be deemed expedient. And no general law shall be in force until published.

100 SECTION 22. The Legislature, at its first session after the adoption of this Constitution, shall provide for the appointment of three commissioners, whose duty it shall be to inquire into, revise, and simplify the rules of practice, pleadings, forms, and proceedings, and arrange a system adapted to the courts of record of this State, and report the same to the Legislature, subject to their modification and adoption; and such commission shall terminate upon the rendering of the report, unless otherwise provided by law.

101 SECTION 23. The Legislature may provide for the appointment of one or more persons in each organized county, and may vest in such persons such judicial powers as shall be prescribed by law. *Provided*, That said power shall not exceed that of a judge of the Circuit Court at chambers.

ARTICLE VIII

FINANCE

102 SECTION 1. The rule of taxation shall be uniform, and taxes shall be levied upon such property as the Legislature shall prescribe.

103 SECTION 2. (As amended Nov. 6, 1877.) No money shall be paid out of the treasury, except in pursuance of an appropriation by law. No appropriation shall be made for the payment of any claim against the State, except claims of the United States, and judgments, unless filed within six years after the claim accrued.

104 SECTION 3. The credit of the State shall never be given or loaned in aid of any individual, association, or corporation.

105 SECTION 4. The State shall never contract any public debt, except in the cases and manner herein provided.

106 SECTION 5. The Legislature shall provide for an annual tax sufficient to defray the estimated expenses of the State for each year; and whenever the expenses of any year shall exceed the income, the Legislature shall provide for levying a tax for the ensuing year, sufficient, with other sources of income, to pay the deficiency, as well as the estimated expenses of such ensuing year.

107 SECTION 6. For the purpose of defraying extraordinary expenditures, the State may contract public debts; but such debts shall never, in the aggregate, exceed one hundred thousand dollars. Every such debt shall be authorized by law, for some purpose or purposes to be distinctly specified therein; and the vote of a majority of all the members elected to each house, to be taken by yeas and nays, shall be necessary to the passage of such law; and every such law shall provide for levying an annual tax sufficient to pay the annual interest of such debt, and the principal within five years from the passage of such law, and shall specially appropriate the proceeds of such taxes to the payment of such principal and interest; and such appropriation shall not be repealed, nor the taxes be postponed or diminished, until the principal and interest of such debt shall have been wholly paid.

108 SECTION 7. The Legislature may also borrow money to repel invasion, suppress insurrection, or defend the State in time of war; but the money thus raised shall be applied exclusively to the object for which the loan was authorized, or to the repayment of the debt thereby created.

109 SECTION 8. On the passage in either house of the Legislature, of any law which imposes, continues or renews a tax, or creates a debt or charge, or makes, continues or renews an appropriation of public or trust money, or releases, discharges or commutes a claim or demand of the State, the question shall be taken by yeas and nays, which shall be duly entered on the journal; and three-fifths of all the members elected to such house, shall in all such cases be required to constitute a quorum therein.

110 SECTION 9. No scrip, certificate or other evidence of State debt whatsoever, shall be issued, except for such debts as are authorized by the sixth and seventh sections of this article.

111 SECTION 10. The State shall never contract any debt for works of internal improvement, or be a party in carrying on such works; but whenever grants of land or other property shall have been made to the State, especially dedicated by the grant to particular works of internal improvement, the State may carry on such particular works, and shall devote thereto the avails of such grants, and may pledge or appropriate the revenues derived from such works in aid of their completion.

ARTICLE IX

EMINENT DOMAIN AND PROPERTY OF THE STATE

112 SECTION 1. The State shall have concurrent jurisdiction on all rivers and lakes bordering on this State, so far as such rivers or lakes shall form a common boundary to the State, and any other State or Territory now or hereafter to be formed and bounded by the same. And the river Mississippi and the navigable waters leading into the Mississippi and St. Lawrence, and the carrying places between the same, shall be common highways, and forever free, as well to the inhabitants of the State as to the citizens of the United States, without any tax, impost, or duty therefor.

113 SECTION 2. The title of all lands and other property, which have accrued to the Territory of Wisconsin, by grant, gift, purchase, forfeiture, escheat or otherwise, shall vest in the State of Wisconsin.

114 SECTION 3. The people of the State, in their right of sovereignty, are declared to possess the ultimate property in and to all lands within the jurisdiction of the State; and all lands, the title to which shall fail from a defect of heirs, shall revert or escheat to the people.

ARTICLE X

EDUCATION

115 SECTION 1. The supervision of public instruction shall be vested in a State Superintendent, and such other officers as the Legislature shall direct. The State Superintendent shall be chosen by the qualified electors of the State, in such manner as the Legislature shall provide; his powers, duties and compensation shall be prescribed by law. *Provided*, That his compensation shall not exceed the sum of twelve hundred dollars annually.*

116 SECTION 2. The proceeds of all lands that have been or hereafter may be granted by the United States to this State, for educational purposes (except the lands heretofore granted for the purposes of a University), and all moneys, and the clear proceeds of all property, that may accrue to the State by forfeiture or escheat, and all moneys which may be paid as an equivalent for exemption from military duty, and the clear proceeds of all fines collected in the several counties for any breach of the penal laws, and all moneys arising from any grant to the State where the purposes of such grant are not specified, and the five hundred thousand acres of land to which the State is entitled by

* An amendment striking out the last provision goes before the people at the general election of 1896. The Legislature of 1895 has fixed the salary at $3,000, conditioned upon the passage of the amendment.

the provisions of an act of Congress, entitled "an act to appropriate the proceeds of the sale of public lands, and to grant pre-emption rights," approved the fourth day of September, one thousand eight hundred and forty-one, and also the five *per centum* of the net proceeds of the public lands to which the State shall become entitled on her admission into the Union (if Congress shall consent to such appropriation of the two grants last mentioned), shall be set apart as a separate fund to be called the school fund, the interest of which, and all other revenues derived from the school lands, shall be exclusively applied to the following objects, to wit:

1. To the support and maintenance of common schools in each school district, and the purchase of suitable libraries and apparatus therefor.

2. The residue shall be appropriated to the support and maintenance of academies and normal schools, and suitable libraries and apparatus therefor.

117 SECTION 3. The Legislature shall provide by law for the establishment of district schools, which shall be as nearly uniform as practicable, and such schools shall be free and without charge for tuition to all children between the ages of four and twenty years, and no sectarian instruction shall be allowed therein.

118 SECTION 4. Each town and city shall be required to raise, by tax, annually, for the support of common schools therein, a sum not less than one-half the amount received by such town or city respectively for school purposes, from the income of the school fund.

119 SECTION 5. Provision shall be made by law for the distribution of the income of the school fund among the several towns and cities of the State, for the support of common schools therein, in some just proportion to the number of children and youth resident therein, between the ages of four and twenty years, and no appropriation shall be made from the school fund to any city or town for the year in which said city or town shall fail to raise such tax, nor to any school district for the year in which a school shall not be maintained at least three months.

120 SECTION 6. Provision shall be made by law for the establishment of a State University, at or near the seat of State Government, and for connecting with the same from time to time, such colleges in different parts of the State, as the interests of education may require. The proceeds of all lands that have been or may hereafter be granted by the United States to the State for the support of a University, shall be and remain a perpetual fund to be called the "University Fund," the interest of which shall be appropriated to the support of the State University, and no sectarian instruction shall be allowed in such University.

121 SECTION 7. The Secretary of State, Treasurer and Attorney General shall constitute a Board of Commissioners for the sale of the School and University Lands and for the investment of the funds arising therefrom. Any two of said Commissioners shall be a quorum for the transaction of all business pertaining to the duties of their office.

122 SECTION 8. Provisions shall be made by law for the sale of all School and University Lands, after they shall have been appraised, and when any portion of such lands shall be sold, and the purchase money shall not be paid at the time of the sale, the Commissioners shall take security by mortgage upon the land sold for the sum remaining unpaid, with

seven per cent. interest thereon, payable annually at the office of the Treasurer. The Commissioners shall be authorized to execute a good and sufficient conveyance to all purchasers of such lands, and to discharge any mortgages taken as security, when the sum due thereon shall have been paid. The Commissioners shall have power to withhold from sale any portion of such lands when they shall deem it expedient, and shall invest all moneys arising from the sale of such lands, as well as all other University and School funds, in such manner as the Legislature shall provide, and shall give such security for the faithful performance of their duties as may be required by law.

ARTICLE XI

CORPORATIONS

123 SECTION 1. Corporations without banking powers or privileges may be formed under general laws, but shall not be created by special act, except for municipal purposes, and in cases where, in the judgment of the Legislature, the objects of the corporation cannot be attained under general laws. All general laws or special acts enacted under the provisions of this section may be altered or repealed by the Legislature at any time after their passage.

124 SECTION 2. No municipal corporation shall take private property for public use against the consent of the owner, without the necessity thereof being first established by the verdict of a jury.

125 SECTION 3. (As amended Nov. 3, 1874.) It shall be the duty of the Legislature, and they are hereby empowered to provide for the organization of cities and incorporated villages, and to restrict their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit, so as to prevent abuses in assessments and taxation, and in contracting debts by such municipal corporations. No county, city, town, village, school district, or other municipal corporation, shall be allowed to become indebted in any manner or for any purpose, to any amount, including existing indebtedness, in the aggregate exceeding five per centum on the value of the taxable property therein, to be ascertained by the last assessment for state and county taxes, previous to the incurring of such indebtedness. Any county, city, town, village, school district, or other municipal corporation, incurring any indebtedness as aforesaid, shall before or at the time of doing so, provide for the collection of a direct annual tax sufficient to pay the interest on said debt as it falls due, and also to pay and discharge the principal thereof within twenty years from the time of contracting the same.

126 SECTION 4. The Legislature shall not have power to create, authorize, or incorporate, by any general or special law, any bank or banking power or privilege, or any institution or corporation, having any banking power or privilege whatever, except as provided in this article.

127 SECTION 5. The Legislature may submit to the voters at any general election, the question of "bank or no bank," and if at any such election a number of votes equal to a majority of all the votes cast at such election on that subject shall be in favor of banks, then the Legislature shall have power to grant bank charters, or to pass a general

banking law, with such restrictions, and under such regulations as they may deem expedient and proper for the security of the bill holders. *Provided*, That no such grant or law shall have any force or effect until the same shall have been submitted to a vote of the electors of the State at some general election, and been approved by a majority of the votes cast on that subject at such election.

ARTICLE XII

AMENDMENTS

128 SECTION 1. Any amendment or amendments to this Constitution may be proposed in either House of the Legislature and if the same shall be agreed to by a majority of the members elected to each of the two Houses, such proposed amendment or amendments shall be entered on their journals with the yeas and nays taken thereon, and referred to the Legislature to be chosen at the next general election, and shall be published for three months previous to the time of holding such election. And if in the Legislature so next chosen, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each House, then it shall be the duty of the Legislature to submit such proposed amendment or amendments to the people, in such manner and at such time as the Legislature shall prescribe, and if the people shall approve and ratify such amendment or amendments by a majority of the electors voting thereon, such amendment or amendments shall become part of the Constitution. *Provided*, that if more than one amendment be submitted, they shall be submitted in such manner that the people may vote for or against such amendments separately.

129 SECTION 2. If at any time a majority of the Senate and Assembly shall deem it necessary to call a convention to revise or change this Constitution, they shall recommend to the electors to vote for or against a convention at the next election for members of the Legislature; and if it shall appear that a majority of the electors voting thereon have voted for a convention, the Legislature shall at its next session, provide for calling such convention.

ARTICLE XIII

MISCELLANEOUS PROVISIONS

130 SECTION 1. (As amended Nov. 7, 1882.) The political year for the State of Wisconsin shall commence on the first Monday in January in each year, and the general elections shall be holden on the Tuesday next succeeding the first Monday in November. The first general election for all state and county officers, except judicial officers, after the adoption of this amendment, shall be holden in the year A. D. 1884, and thereafter the general election shall be held biennially. All state, county or other officers elected at the general election in the year 1881, and whose term of office would otherwise expire on the first Monday of January in the year 1884, shall hold and continue in such office respectively, until the first Monday in January in the year 1885.

131 SECTION 2. Any inhabitant of this State who may hereafter be engaged, either directly or indirectly, in a duel, either as principal or accessory, shall forever be disqualified as an elector, and from holding any office under the Constitution and laws of this State, and may be punished in such other manner as shall be prescribed by law.

132 SECTION 3. No Member of Congress, nor any person holding any office of profit or trust under the United States (postmasters excepted), or under any foreign power; no person convicted of any infamous crime in any court within the United States, and no person being a defaulter to the United States, or to this State, or to any county or town therein, or to any State or Territory within the United States, shall be eligible to any office of trust, profit or honor in this State.

133 SECTION 4. It shall be the duty of the Legislature to provide a great seal for the State, which shall be kept by the Secretary of State; and all official acts of the Governor, his approbation of the laws excepted, shall be thereby authenticated.

134 SECTION 5. All persons residing upon Indian lands within any county of the State, and qualified to exercise the right of suffrage under this Constitution, shall be entitled to vote at the polls which may be held nearest their residence for State, United States or County officers. *Provided*, that no person shall vote for county officers out of the county in which he resides.

135 SECTION 6. The elective officers of the Legislature, other than the presiding officers, shall be a Chief Clerk and a Sergeant-at-arms, to be elected by each house.

136 SECTION 7. No county with an area of nine hundred square miles or less, shall be divided or have any part stricken therefrom, without submitting the question to a vote of the people of the county, nor unless a majority of all the legal voters of the county voting on the question shall vote for the same.

137 SECTION 8. No county seat shall be removed until the point to which it is proposed to be removed, shall be fixed by law, and a majority of the voters of the county voting on the question, shall have voted in favor of its removal to such point.

138 SECTION 9. All county officers whose election or appointment is not provided for by this Constitution, shall be elected by the electors of the respective counties, or appointed by the boards of supervisors, or other county authorities as the Legislature shall direct. All city, town and village officers, whose election or appointment is not provided for by this Constitution, shall be elected by the electors of such cities, towns and villages, or of some division thereof, or appointed by such authorities thereof as the Legislature shall designate for that purpose. All other officers whose election or appointment is not provided for by this Constitution, and all officers whose offices may hereafter be created by law, shall be elected by the people, or appointed as the Legislature may direct.

139 SECTION 10. The Legislature may declare the cases in which any office shall be deemed vacant, and also the manner of filling the vacancy where no provision is made for that purpose in this Constitution.

ARTICLE XVI

SCHEDULE

140 [This article provides for the change from the territorial form of government to the state form. It makes the first apportionment into senate and assembly districts. It declares such parts of the common law, then in force in the Territory of Wisconsin, not inconsistent with the Constitution, to be still in force in the State of Wisconsin.]

Chapter IV.—Preamble and Declaration of Rights

The figures in parentheses refer to the numbers of the paragraphs of the constitution. The letters Y. C. B. refer to Young's Government Class Book.

1. Preamble—The preamble is adapted from the preamble of the United States constitution. It provides for a better government than the territorial form, which the constitution superseded. It declares that the constitution is made by the people of the State. It recognizes Almighty God and devoutly expresses gratitude to Him (1). There is no recognition of God in the United States constitution.

2. Inherent Rights; Object of Governments; Source of Powers—The first article of the constitution is a declaration of rights. It opens with a quotation, slightly altered from the Declaration of Independence (2). We have heard it so often, it has lost most of its meaning to us. Still, the declaration, that all governments derive their just powers from the consent of the governed, and that governments are instituted among men to secure their inherent rights are lofty ideals of the source and ends of government, well worth pondering deeply.

2. Slavery Forbidden.—The second section is taken from the Ordinance of 1787, and is one of its noblest provisions. By it slavery was prohibited long before the thirteenth amendment to the United States constitution prohibited it throughout the United States (Y. C. B., p. 125). It is a historical fact that slave labor was em-

ployed in Wisconsin, in lead mining, and in domestic service, but it was in the early days of the territory, or rather, when Wisconsin was a part of the territory of Michigan. The public sentiment of the State was always opposed to slavery.

4. Why State Constitution Repeats United States Constitution—The young student is often puzzled at finding so many of the provisions of the United States constitution repeated substantially, and even word for word, in the constitution of his State. The twenty personal rights enumerated in this article are the great historic rights of Englishmen and their descendants in America. Many of them are as old as Magna Charta. Freedom of speech (4), freedom of the press (4), freedom in religion (19), the rights of assembly (5), the right of petition (5), the right of trial by jury (6), the right of *habeas corpus* (9), security of homes, persons, and papers, against unreasonable searches and seizures (12), immunity from cruel and unusual punishments, or excessive bail (7), the subordination of the military power to the civil power (21),—all these are carefully enumerated and specially guarded in both constitutions. Why in both? Are they not all made secure to the people of the United States by the federal constitution? Yes, and no. They are made secure against interference by the *United States government*. The Supreme Court of the United States has always held, that, in the first ten amendments, and elsewhere in the constitution where these rights are enumerated, the purpose of the people of the United States was simply to prohibit congress from meddling with these rights. The people say to the United States government "Hands off." But these amendments have no force whatever as against

the State governments (Y. C. B., p. 194). Indeed, it is quite possible for the legislatures of the separate States to pass very unjust and oppressive laws in regard to these rights, unless restrained by their State constitutions. Citizens of the United States, residing in States where such oppressive laws might happen to be in operation, would have no redress in the United States Courts. The people have thought it wise not to give the United States government any jurisdiction whatever, in these matters, and so, the people of Wisconsin enumerate and guard these rights in their constitution, against *State interference*. By *both* constitutions together, these rights are retained by the people and made secure.

5. Field of State Authority : Field of United States Authority—The United States government has jurisdiction in United States matters. The State government has jurisdiction in State matters. The State government is not a branch of the United States government in the sense in which the county, city, and town governments are branches of the State government. Each of the two governments is supreme in its own proper sphere. It is true that the United States Constitution, laws, and treaties, are the supreme law of the land. There must be nothing in the State constitution or laws in conflict with the United States Constitution or laws. If there should be, it must give way. We are a nation. The States no longer retain their "sovereignty, freedom and independence, and every power, jurisdiction and right, which is not by this confederation expressly delegated to the United States in congress assembled," as they did under the articles of confederation. Expressly, and by implication as well, large powers have been surrendered to the United States government.

6. State Powers—On the other hand the powers not so surrendered are still more numerous and important. Many of them touch our daily lives very closely,—our family, social, and business interests. These are the powers exercised by the State governments, or held in reserve by the people.

7. Vastness of State Powers—The vastness of the powers left to the separate States is not always realized by the ordinary citizen. Woodrow Wilson, in order to show how great these powers are, uses a very striking illustration. He says that the constitutional history of England for eighty years has been connected with the settlement of twelve great questions, which he enumerates. These questions have been settled by the British parliament. Had they arisen in this country before the war, only one of them,—the repeal of the corn laws,—could have been considered by congress. Had they arisen since the war, one other question,—the abolition of slavery,—could have been so considered. All the other ten questions would have been settled by the separate State governments, each in its own way.

8. Importance of Understanding Relations of State and General Governments—If the student will get a clear conception of the mutual relations and interplay of the State governments and the United States government, he will understand our system better, and will learn to admire and love it more. This in turn should make him public-spirited, and patriotic,—willing to sacrifice his time and his means, if necessary, for the correction of abuses that have arisen in it, for the maintenance of its efficiency, and for the enlarging and perfecting of it, to meet the needs of our rapidly expanding civilization. "*Forward*" is our State motto. Wisconsin will be true

to her motto, only so far as her children are intelligent and patriotic.

9. Rights Already Considered—Most of the rights enumerated in this article have been already treated adequately (Y. C. B., pp. 193–198). Others require further attention.

10. Due Process of Law—In Wisconsin no person can be held to answer for a criminal offense without due process of law (9). For capital and otherwise infamous crimes against the United States, no person can be held to answer, unless on presentment or indictment of a grand jury (Y. C. B., p. 121). Grand juries are very seldom called in Wisconsin. Due process of law is usually a preliminary examination before a justice of the peace followed by an information made to the trial court by the district attorney. The United States have one "Process of Law," Wisconsin has a different process. By section 1 of the fourteenth amendment (Y. C. B., p. 125), the United States are given authority to see that no State shall deprive any person of life, liberty, or property, without due process of law. This does not mean due process of United States law but due process of State law. That is, the United States may insist that the criminal shall be tried as other criminals are tried for the same offense in the State courts.

11. All Lands Allodial—All lands in Wisconsin are allodial (15). This means that the owner of a piece of land has absolute dominion over it. He may convey it—that is, sell it—on such terms and conditions as he chooses. A feudal tenure, at first, was the right to hold land, in consideration of military services rendered or pledged, to the proprietor. Later it came to mean any *perpetual* service, or rent. Restraints upon alienation are usually called entails. In some countries, all

the real estate of a family descends by inheritance to the eldest son. It cannot be sold by the owner. It cannot be seized and sold for debt. It must remain in the line of eldest sons, by what is called primogeniture. Feudal tenures, entails, and primogeniture are the foundations of the English aristocracy.

12. Farming Lands—Farming lands cannot be rented for a longer term than fifteen years; otherwise the provisions of this section might be frustrated.

13. Object of Section 15—The object of this section is to prevent the growth of a landed aristocracy, and to promote the ownership of the soil by those who till it. The United States homestead and pre-emption laws were framed with the same end in view. The policy is profoundly wise. The greater the number of persons owning the soil they till, the smaller the number of anarchists and other enemies of the social system, and, in every way, the more stable the State.

14. Exemption Laws—The exemption laws are extremely liberal (18). While it is just and reasonable that the property of the debtor should be seized and sold to pay his debts, it is not good public policy to strip the debtor of the necessary comforts of life, and deprive him of the means of earning a living. His homestead cannot be taken from him—forty acres of land in the country, with all the buildings upon it, or a quarter of an acre in the city. Other exemptions are family wearing apparel, household furniture, libraries, the mechanic's tools, and his stock in trade, not exceeding two hundred dollars in value, two cows, ten swine, one yoke of oxen, and one horse, or mule, or, in lieu of the oxen and the horse, or the oxen and the mule, two horses or two mules, ten sheep and their wool, a year's

provisions and fuel, and many other things, literally too numerous to mention.

Chapter V.—Boundaries

1. Fixed by the Constitution—The student should trace out carefully on a good map of the State, the boundaries as fixed in the Constitution (24).

2. Proposition to Change—During the session of 1895 the legislature of Minnesota passed a joint-resolution requesting the legislature of Wisconsin to appoint commissioners, to meet a board of commissioners from Minnesota, for the purpose of considering the request of the legislature of Minnesota that an area of about twenty-nine townships in the extreme northwest part of the state be set over into Minnesota. The purpose of the movement is to place the two cities of Duluth and Superior under one government. The Wisconsin commissioners have been appointed, as state comity, seemed to require. They are instructed to report to the next legislature.

3. Changes: How Made—In order to effect the change, or any similar change, the mere request of the legislature of Minnesota is not sufficient. The legislature of Wisconsin must consent to the change, and it must then be approved by Congress. We may safely say that no such change will ever meet such consent and approval.

4. Land Titles: U. S. Lands not Taxed: Uniform Taxation: School Lands—Section 2 provides that the State shall never interfere with titles to land derived from the United States; that no United States' lands in the state shall be taxed; that the rate of taxation shall be the same for non-residents as for residents. It also claims for the State the five hundred thousand acres

of land granted by the United States, for educational purposes (25).

Chapter VI.—Suffrage

1. Qualifications of Voters the Same at All Elections—The provisions in regard to suffrage are extremely liberal (26). The qualifications of voters at elections for presidential electors, members of the House of Representatives and for State and county officers, held regularly on the first Tuesday after the first Monday in November in the even-numbered years; for judges of the Supreme, Circuit, and County Courts, and for all town officers, held on the first Tuesday in April, annually; and for school district officers held on the first Monday in July, annually, must all have exactly the same qualifications. The person entitled to vote at any one of these elections is entitled to vote at every one of them. The only exception is, that women have the right to vote at school-meetings.

2. Who may Vote—Every voter must have all of these four qualifications:—(**a**) Male sex; (**b**) twenty-one years of age, at least; (**c**) one year's residence in the State; (**d**) ten days' residence in the election district. Having these qualifications he must belong to some one of the following classes:—(**e**) Citizens of the United States; (**f**) persons of foreign birth who have declared their intention of becoming citizens of the United States in conformity to the national naturalization laws; (**g**) persons of Indian blood once declared citizens by congress, notwithstanding any subsequent contrary law of congress; (**h**) civilized Indians not belonging to any tribe.

3. Natives and Foreigners on Same Footing—It will be

seen that a descendant of one of the original Mayflower pilgrims, coming from Massachusetts, and an emigrant from farthest Russia, are placed upon exactly the same footing. The one must reside in the State a year before he is allowed to vote. So must the other. During the year the Russian must declare his intention.

4. Chinamen—The Chinaman is excluded. His race cuts him off from the privileges of class 3 and class 4 (26). The naturalization laws are not open to him. He cannot enter class 2 or class 1 (26). The State has made no special provision for him.

5. In other States—In Illinois, Iowa, Kentucky, California, Nevada, Montana, Texas, Maine, Vermont, South Carolina, and some other States, none but United States citizens are allowed to vote. That was the rule, too, in the Territory of Wisconsin. At first thought, it seems like a wise policy for all the States. The foreigner, under that policy, is not able to vote until he has lived at least five years in the United States, and has had a chance to become familiar with our institutions.

6. Wisconsin's Way Best—On the other hand, there are many places,—wards in cities and towns in the country,—where the population is almost exclusively of foreign birth. In these places local government must be maintained by the people. They are not at first, qualified for self-government, perhaps. But they will never become qualified through having the right of suffrage denied them. Macaulay has told us that no people ever became worthy of liberty except through the enjoyment of liberty. Wisconsin with an unusually large foreign population, has, from the beginning, frankly entrusted foreigners with the right to vote. The results have vindicated the wisdom of her policy.

7. Other Privileges of Foreigners—Not only are persons

who have declared their intention, allowed to vote, but the Supreme Court of the State has declared them to be citizens of the State (See Wis. Reports, *in re* Wehlitz) They are eligible to all town, county, and State offices except governor and lieutenant-governor, and judge of the Supreme Court or of the Circuit Courts. They are exempt from the duty of serving on the grand or the petit jury, both under United States laws and the laws of the State. Enjoying as they do substantially, all the privileges of citizens of the State and of the United States, and being relieved of some of their most irksome duties, it has happened that the number of voters not citizens of the United States, is very large.

8. **Registration**—Wisconsin is one of the States in which voters must be registered in order to be allowed to vote (Y. C. B., p. 30). The registration laws, however, apply only to cities having a population of over three thousand, to incorporated villages, of over fifteen hundred inhabitants, in which by law separate elections are held, to towns containing villages of fifteen hundred inhabitants, provided the villages do not hold separate elections, and all towns, any part of which shall have been embraced in any part of any city or village in which registration is required.

9. **Incapables, Insane Persons, Traitors, Felons**—The suffrage is denied to all persons under guardianship, *non compos mentis*, or insane, and to all traitors and felons (27). An adult may be placed under guardianship on account of incapacity to take care of himself arising from habitual drunkenness or any other cause. The denial of the suffrage to all these classes is simple common-sense. Those incapable of managing themselves are manifestly incapable of helping to manage the State, and enemies of the social order should not help to direct its affairs.

10. Bribers, Duelists, Betters—The suffrage is denied, also, to all persons convicted of bribery (31), and to all persons engaged in dueling either as principals or accessories (131). All persons interested directly or indirectly, in any election bet, are deprived of the right to vote at that election (31).

11. Paupers—Paupers, as such, are not excluded from the right of suffrage.

12. Ballots—All voting must be by ballot with such exceptions, in the case of town officers, as the law may direct or allow (28).

13. Description of Ballots—All ballots are provided at public expense. They contain the names of all the candidates of all the parties. The names of the offices for which the candidates are running are plainly indicated, and the names of candidates of the several parties are arranged in separate columns, each set under its proper party name. Just under the party name, there is a little square, and to the right of each separate name there is a similar square.

14. Manner of Voting—At the voting place, the ballots are kept in an enclosure, behind a railing, by two officers appointed for that purpose, called ballot clerks. The voter enters the enclosure through a gate and receives a ballot from one of these clerks. He then proceeds to a stall, or booth—one of a number of such, all quite screened from one another. In the booth he finds a pencil and simple printed instructions how to prepare his ballot. If he wishes to vote a straight party ticket —the Republican, for example, he makes a cross (x) in the little square at the head of the column headed "Republican." By that one cross (x) he votes for every candidate in the column. If he wishes to vote for candidates of different parties he makes a cross (x) at the

right of the name of every candidate for whom he wishes to vote. If he does not wish to vote for any of the candidates named in the ballot, he may write such names as he pleases in blank lines left for that purpose, and place a cross (x) opposite each name. In this way he may vote for a full set of candidates of his own choosing. Having prepared his ballot, he hands it to one of the inspectors of election, giving his name. If he is registered, the inspector drops the ballot into the box, the clerks check off his name on the list and register him in another list, as having voted. He then passes out of the enclosure by another opening and withdraws.

15. Sample Ballot—Appended is a fac-simile of the official ballot of the second ward of the city of Whitewater used in the general election held November 8, 1892. It has been modified in size to fit this book.

CHAPTER VII.—LEGISLATIVE.

1. Two-chambered—Like all the other States, and the United States, Wisconsin has a two-chambered legislature (32).*

2. Number of Members—The number of senators is thirty-three, of assemblymen, one hundred—the largest numbers possible under the constitution (33).

3. State and U. S. Censuses—In every year ending in

* One of the main questions of English politics, at present (July, 1895) is the abolition of the House of Lords. In the United States there has been considerable discussion of the question of abolishing the senate. There was only one chamber under the articles of Confederation. The Confederate States of America had but one. In the building of the new States it is quite probable, that two-chambered legislatures have been retained more in a spirit of conservatism than as the result of any original study of sound principles of government. Still, there are very many weighty arguments in favor of the two chambers.

Secretary of State	T. J. CUNNINGHAM.	A. BROUGHTON	E. FRED RUSSEL	R. W. JACKSON
State Treasurer	JOHN HUNNER	A. MANHEMER	J. C. MARTIN	ATLEY PETERSON
Attorney General	J. L. O'CONNOR	M. W. STEVENS	F. A. WATKINS	JAMES O'NEILL
State Superintendent	OLIVER E. WELLS	SARAH POTTER	L. W. UNDERWOOD	W. H. CHANDLER
Railroad Commissioner	THOS. THOMPSON	CHARLES HATCH	JOHN E. CLAYTON	JOHN D. BULLOCK
Register of Deeds	JOHN MENZIE		WANDELL TOPPING	WM. T. TAYLOR
County Surveyor	JAMES L. TUBBS		HENRY H. TUBBS	WILLIAM CHILD
Supt. of Schools	JAMES T. GRIFFEN		J. G. SKEELS	RAY W. TAYLOR

For the Amendment to Subdivision 9, of Section 31, of Article IV., of the Constitution .....

Against the Amendment to Subdivision 9, of Section 31, of Article IV., of the Constitution .....

0, a census is taken by United States authority. In every year ending in 5 a census is taken by State authority. At the first session after a census is taken, the legislature is required to district the State into Senate and Assembly districts (34). There is, therefore, an apportionment every five years.

4. Directions for Apportioning—The constitution provides that these districts shall be made according to population (34); that the boundaries of assembly districts shall be county, precinct, town, or ward lines (35); that no assembly districts shall be divided in making senate districts (35); that districts shall be of contiguous territory (35).

5. Unconstitutional Apportionments—It is doubtful if there has ever been a constitutional apportionment in the history of the State. Gerrymandering has been done by both the political parties that have had control of the State legislature, and with pretty nearly equal skill.

6. Decision of Supreme Court—The apportionment made by the legislature of 1891 was set aside by the Supreme Court as unconstitutional. A second apportionment made by the same legislature at a special session, met the same fate. The present apportionment was made at a second special session.

7. Effect of These Decisions—These judicial rebukes of gerrymandering have given great satisfaction to the people of the State. They have also been regarded as hopeful signs, in the other States, where gerrymandering has been quite as common and unblushing as it ever was in Wisconsin. In the future, we may safely hope, apportionments will be made with more attention to plain constitutional requirements.

8. Present Legislation—In fact, the legislature of 1895,

provided for the appointment of a joint committee of nine members, six assemblymen and three senators, with representatives of the minority party of each house in the usual proportions. The committee is charged with the duty of preparing an apportionment bill in strict conformity with constitutional provisions as interpreted by the Supreme Court.

9. Senators and Assemblymen—The senatorial term is four years. The senate districts are numbered in regular series (36). At the general elections, held on the first Tuesday after the first Monday in November, in the even numbered years, senators are chosen by single districts, alternately from the odd and the even numbered districts (36). At the same time assemblymen are chosen, by single districts for the term of two years (35).

10. Eligibility—To be eligible to the legislature, a person must be a qualified elector of the district he is chosen to represent(37). As has been pointed out, this admits persons not citizens of the United States.

11. Powers of Separate Houses: Elections : Quorum—The provisions as to elections, returns and qualifications of members, and as to quorum (38) are taken word for word from the United States constitution. The legislature, however, has never been able to put such uncertainty of meaning into the expression "a majority of each shall constitute a quorum to do business," as has the U. S. House of Representatives.

12. Officers: Rules : Expulsions—Each house chooses its own officers (40) except that the lieutenant-governor is president of the senate (71). Each house determines the rules of its own proceedings and has the power to expel members for contempt or disorderly conduct (39).

13. Meetings—The legislature meets in Madison in regular session, once every two years. The day of meeting is the second Wednesday of January after the election (42).

14. Privileges of Members—The privileges of members and the restrictions placed upon them (43, 44, 46, 47) are nearly identical with similar privileges and restrictions of United States senators and representatives (Y. C. B. p. 108).

15. Vacancies—Vacancies are filled by special elections called by the governor (45).

16. Bills—Any bill may originate in either house (50). In Congress, all bills for raising revenue must originate in the House of Representatives (Y. C. B., p. 108).

17. Salaries—The compensation of members of the senate and assembly is five hundred dollars, for each regular session, and mileage at the rate of ten cents a mile in going to and returning from, the same (52). There is no extra compensation for attendance at special sessions, except the regular allowance for mileage (52).

18. Town and County Government—There shall be but one system of town and county government (54) and the powers of county boards may be prescribed by the legislature (53).

19. County Boards—The county boards at present, are made up of the chairmen of the several town boards in the county, one member from each incorporated village, and one from each ward of each city. The boards meet annually on the Tuesday next succeeding the second Monday of November. They are very important bodies, clothed with large powers, though the student should notice that they have no *implied* powers.

All their powers are conferred upon them by the legislature. These powers may be increased or diminished, at the pleasure of the legislature.

20. Powers—Among their other powers the county board may,—

a. Settle and examine all the accounts of the county.

b. Apportion and order the levying of taxes.

c. Make lists of jurors.

d. Build, and keep in repair, the county buildings.

e. Organize, and change the boundaries of towns.

f. Incorporate literary, benevolent, charitable and scientific institutions.

g. Change the name of any town or village or person in the county.

h. Appropriate a sum of money not exceeding ten thousand dollars for a soldiers' monument.

i. Fix the salaries of county officers.

21. Suits Against the State—The eleventh amendment to the United States constitution, provides that no citizen of any State can sue another State in the United States Courts (Y. C. B., p. 123). The State constitution directs the legislature to determine by law, in what manner and in what court suits may be brought against the State (58). All such claims must first be presented to the legislature. Should the legislature refuse to allow the claim, the suitor may prosecute it in the Supreme Court of the State. The State in such suits is defended by the attorney-general.

22. Official Oaths—Members of the legislature, and all State, county, and town officers, must make an official oath, or affirmation, to support the constitution of the United States and the constitution of the State (59).

23. Wisconsin National Guard—The State militia is now

known as the Wisconsin National Guard. It consists of four regiments of infantry, one troop of cavalry and one battery of light artillery, in all 2,445 men (60). It is in a state of great efficiency.*

24. Private and Local Laws.—The legislature used to be burdened with a great number of private and local measures. In 1875, the constitution was amended so as to prohibit the legislature from enacting any such laws in nine very important cases (62). In 1892, by another amendment, the legislature was still further restricted. No special laws can now be passed for incorporating any city or amending its charter (62). The people directed the legislature to provide for these cases by general laws and the legislature has done so (63).

25. Powers Given to County Boards—Many of these powers are now exercised by the county boards, under authority conferred upon them by general acts of the legislature.

26. Cities Classified—By a general act the cities of the State are divided into four classes. Cities of one hundred fifty thousand inhabitants, or over, constitute the first class. Milwaukee is the only city of the class. Cities of forty thousand inhabitants, or over, but

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* While this is being written (July 1895), United States soldiers—cavalry and artillery—to the number of 200 men are marching from Camp Sheridan, near Chicago, to Camp Douglas, in Juneau Co. These United States forces are ordered to camp at Camp Douglas during the annual encampment of the Wisconsin National Guard, in order to instruct the Wisconsin forces in the United States discipline prescribed by Congress (Y.C.B., p. 110). Great standing armies are a menace to the liberties of the people, but every people should foster enough of the war spirit to make them secure from invasion. All members of the Wisconsin National Guard are volunteers.

less than one hundred fifty thousand, constitute the second class. There are no cities of this class, at present. Cities of ten thousand inhabitants, or over, but under forty thousand, constitute the third class. Cities of fifteen hundred inhabitants, or over, but under ten thousand, constitute the fourth class.

27. General Charters for Cities—There is a general charter, with special provisions for each of the separate classes of cities. New cities must organize under the general charter with the powers of the class to which they belong. Cities under special charters may reorganize under the general charter, but they are not compelled to do so. If the law had been made to apply to cities already existing, there would have been uniformity in city government, as there is in town and county government. The amendment of 1892 has cut off a large amount of special legislation. Since the amendment, no changes can be made in the charter of any city, without involving like changes in the charter of every other city of the same class.

28. Sources of Legislative Power—The student will notice that while there are prohibitions upon the power of the legislature, corresponding to, and in many cases identical with the prohibitions upon the United States congress, there is no enumeration of the powers of the legislature, corresponding to the enumeration of the powers of congress. The reason is, that congress has no powers except those granted by the constitution while the State constitution must not be construed as granting power to the legislature. It is rather a limitation of the powers of the legislature. It is competent for the legislature to exercise all legislative power, not forbidden by (a) the State constitution, (b) or the United States con-

stitution, or (c) delegated to congress.* In other words, congress may do anything it is *authorized* to do; the State legislature may do anything it is not *forbidden* to do.

Chapter VIII.—County Government

1. County Legislature—As we have seen, the county board is the legislative arm of the county government.

2. Sheriff and Coroner—Executive Officers—The executive officers are the sheriff and the coroner (77).

3. Administrative officers—The administrative officers are the clerk, treasurer, register of deeds, surveyor, district attorney and school superintendent.

4. Judicial Officers—The judicial officers are the county judge, the clerk of the court, and the court commissioners.

5. When Elected—Terms of Office—All county officers are elected at the general elections in November, for the term of two years, except the county judge, elected at the spring elections in April for four years, and the court commissioners, appointed by the circuit judge and holding office during the term of the judge appointing them.

6. Duties of Sheriff—The duties of the sheriff previously given (Y. C. B., p. 54) apply to Wisconsin. He appoints an undersheriff and a number of deputy sheriffs, for whose official acts he is responsible. He is ineligible for re-election for two years after the close of his term (77).

7. Duties of Coroner—The office of coroner in Wisconsin is peculiar. Inquests are usually held by justices of the peace, though in all counties the coroner *may*

* Bushnell v. Beloit, 10 Wis. 195.

hold them, and in counties of over ninety-five thousand inhabitants he is required to hold them. He acts as sheriff when there is a vacancy in that office, and when the sheriff is a litigant.

8. **Duties of County Clerk**—The county clerk keeps a record of the transactions of the county board. He signs all orders on the county treasurer, and keeps a list of all orders drawn. He reports on oath, to the county board at their annual meeting all moneys received and disbursed by him. He has various other duties.

9. **Duties of Treasurer**—The treasurer takes charge of all the money of the county.

10. **Duties of Register of Deeds**—The register of deeds, in some States, called the recorder (Y.C.B., p. 54), keeps a record of births, deaths, and marriages in his county. He records all deeds, real-estate mortgages, city and village plats, certificates of organization of corporations, and quite a number of other legal papers. He is obliged to furnish certified copies of any of these records to any persons asking for them and tendering the fee fixed by law.

11. **Duties of Surveyor**—The county surveyor makes all surveys required of him by any court, or by any individual or corporation. He keeps a record of the plats, and field notes of all his surveys, and furnishes copies of any of the records of his office. His fees are fixed by law.

12. **Duties of District Attorney**—The duties of the district attorney already explained (Y. C. B., p. 55) apply to Wisconsin.

13. **Duties of Superintendent of Schools**—The county superintendent examines teachers and issues certificates to them. He has general supervision of all of the common

schools of the county not under city boards of education.

14. Duties of County Judge—One principal duty of the county judge is the probate of wills. Probate courts have been abolished by the legislature (92), and their powers conferred upon the county courts. The county judge has also many other duties.

15. Duties of Clerk of the Court—The clerk of the court is the clerk of the *Circuit* Court. He is not an officer of the county court, except for the purpose of certifying to copies and transcripts of all the records and files of the county court, to be used outside of the State. He keeps all the records, books, and papers of the circuit court. He keeps a record of all the judgments and orders of the court. He keeps a court record including a list of all the cases tried in the court, with the names of the parties, designated as plaintiffs or defendants, the names of the attorneys of the respective parties, a brief statement of the nature of the suit, and how it was disposed of. He keeps a similar record of all criminal proceedings. He keeps a list of the names of all persons admitted to United States citizenship by the court. His fees are determined by law.

16. Duties of Court Commissioners—Court commissioners have all the powers of circuit judges "at chambers," that is, when not engaged in holding court.

CHAPTER IX.—TOWN GOVERNMENT

1. The Town a Pure Democracy.—On account of the large New England element in the State, the town has retained many of the features of the New England township. It is a very close approach to a pure democracy. The people meet in town-meeting every spring, on the

first Tuesday of April, and legislate upon such matters as voting taxes for schools, roads, bridges, and the care of the poor as they see fit. All the town officers report to the people at this meeting and officers are elected for the next year.

2. Town Board.—The town board of supervisors consists of three members, one of whom is designated chairman, and, as we have seen, serves on the county board. The town board enforces the orders of the people at the spring election. It has control of all the property of the town. It forms and alters school districts and fills vacancies in town offices. The members of the board are the inspectors of elections, and together with the town clerk and the assessor they form the town board of review of assessments for taxes. The board has a wide range of important duties.

3. Town Clerk.—The town clerk is the secretary of the town board. He keeps a record of all the proceedings of the board, and an account of all moneys received and paid out. He is clerk of all town meetings also. He has the custody of all chattel mortgages.

4. Town Treasurer.—The town treasurer receives and pays out the money of the town. He is also tax collector.

5. Assessor: Boards of Review.—The assessor makes a list of all the taxable property of the town, both real and personal, and puts a value upon it. At the meetings of the board of review, spoken of above, any one aggrieved may appear and show cause why the valuation of any property should be changed. When the work of the board of review is completed the assessment is said to be equalized. It may be noted here, that the county board constitutes a board of equalization as between the different towns of the county, and the secretary of State,

State treasurer, and attorney-general, constitute a State board of equalization as between the different counties of the State.

6. Constables—The constables, of whom there are not more than three in each town, are the ministerial officers of justices of the peace. They may be required by the sheriff to attend upon the sessions of the Circuit Court. They may serve any legal process within their county when so directed by any court.

7. Justices of the Peace—There are four justices of the peace in each town. The term of office is two years. They are judicial officers with jurisdiction co-extensive with the county, in civil cases where the amount in controversy does not exceed two hundred dollars, and of criminal cases where the punishment does not exceed six months' imprisonment in the county jail or a fine of five hundred dollars, or both. They may administer oaths, take acknowledgments, solemnize marriages and have many other powers.

CHAPTER X.—EXECUTIVE.

1. Governor and Lieutenant-Governor—The executive power is vested in a governor who, together with a lieutenant-governor, is elected for a term of two years by the qualified electors of the State (64). The qualifications for both offices are the same as for other non-judicial State offices, except that United States citizenship is added (65).

2. How Elected—A majority vote is not required for these, or any other state offices. The candidate receiving more votes than any other, is elected. In case of a tie, the legislature, in joint session, chooses by ballot

one of the persons having an equal and the highest number of votes (66).

3. Powers of Governor—The governor is commander-in-chief of the military and naval forces of the State. He may call special sessions of the legislature and may convene it for certain reasons at other places than Madison. He sends to every session of the legislature, a paper called the governor's message, giving the condition of the State and making such recommendations as seem to him expedient. He transacts the business of the state with all the civil and military officers. He expedites all measures resolved upon by the legislature, and sees that the laws are faithfully executed (67). His compensation is five thousand dollars a year (68). He may grant pardons and reprieves except in cases of treason and impeachment (69). The manner of making applications for pardons is prescribed by law, and the governor is required to communicate annually to the legislature each case pardoned with the name of the convict, and his reasons for pardoning him (69). It must be somewhat difficult for the governor to comply with this constitutional requirement since the legislature meets only once in two years. Like the president, he has the veto power, and under almost identical restrictions (Y. C. B., p. 139.) (73). When the office becomes vacant, the lieutenant-governor becomes governor (70).

4. How Bills become Laws—The provisions of the constitution prescribing how bills may become laws are taken from the United States constitution with only very slight variations (Y. C. B., p. 139.) (73).

Chapter XI.—Administrative

1. **Departments**—There are only three departments in the United States government—legislative, executive and judicial. All administrative officers are officers of the executive. This is not true in the state government. The president has a cabinet of official advisers in the heads of the great departments. The governor has no such cabinet.

Officers elected by the people for two years

2. **The Secretary of State,** who keeps the records of the official acts of the legislative and executive departments, acts as State auditor, and performs many other duties assigned him by law (75). His yearly compensation is $5000.

3. **The Treasurer,** who takes care of the moneys of the State and has many other duties (76). Salary $5000.

4. **The Attorney-General,** who is the legal advisor of the State officers and the lawyer of the State (76). Salary, $3000.

5. **The State Superintendent,** who has charge of public instruction (115 and note). Salary, $1200.

6. **The Railroad Commissioner,** who inquires into any neglect or violation of the laws by railroad corporations, and examines the condition and equipments of all the railroads of the State with relation to public safety. He collects statistics as to the actual cost, receipts, expenditures, and net earnings of railroads, reports the same to the State treasurer, and publishes every year a railroad map of the State. Salary, $3000.

7. **The Insurance Commissioner,** who has general superintendence of all insurance companies doing business in the State and authority to inquire into their financial standing, to require them to report to him such facts as he may require, and to see that they obey the State insurance laws. Salary, $3000.

OFFICERS APPOINTED BY THE GOVERNOR

8. **The Commissioner of Labor, Census, and Industrial Statistics,** whose duty it is to collect and collate statistics relating to the manufactures, industrial classes, and material resources of the State, to examine into the relations between capital and labor, the means of escape from fire, protection of life and health in factories and workshops, the educational, sanitary, moral and financial condition of laborers and artisans, and other kindred subjects. The person appointed by the governor must be approved by the senate in order to hold the office. Salary, $2000.

9. **The Adjutant-General** is the governor's chief of staff and inspector-general. He has custody of all the military records of the State and acts as State pension agent, to assist residents of Wisconsin having claims against the United States on account of service in the war of the rebellion, in proving their claims. Salary, $2000.

10. **The Quartermaster-General** is commissary-general and chief of ordnance. He has charge of all the military property of the State, including the battle-flags, brought back from the war.

11. **The Superintendent of Public Property** has charge of the capitol and the public grounds around the same. With the advice of the governor, he employs and fixes

the compensation of all workmen needed to keep the capitol and public grounds in a proper state of cleanliness and repair. Under the direction and control of the governor, he purchases all fuel, furniture, fixtures, carpets, gas or other articles or things required for use in and about the capitol for State purposes, except stationery. He is required by law to advertise for bids for furnishing stationery, in two newspapers in each of the cities of Madison, Milwaukee and Chicago, and to let the contract to the lowest bidder. This stationery is furnished to the legislature, and to the governor and other State officers. The superintendent must charge himself with all stationery purchased, and account for all of it, in the annual report he is required to make to the governor. Salary, $2000.

12. The State Treasury Agent collects State licenses from peddlers, traveling showmen, transient merchants and others. He is allowed as compensation for his services and the services of his assistants, one fourth of all the moneys collected.

13. The State Supervisor of Inspectors of Illuminating Oils is appointed by the governor by and with the advice and consent of the senate. The State is divided into fifty-two districts with an inspector in each district appointed by the supervisor and responsible to him. It is the duty of the inspectors to examine and test all illuminating oils offered for sale in the State and to forbid the sale of all oils that do not stand the test. Salary of supervisor, two cents on each barrel of oil inspected, but not more than $3000 altogether.

14. Dairy and Food Commissioner— The governor, by and with the advice and consent of the senate appoints a dairy and food commissioner, at a salary of $2500.

The commissioner, with the consent and advice of the governor, appoints two assistants, one of whom shall be an expert in the matter of dairy products, and the other a practical analytical chemist, whose salaries shall not exceed $1800 each. It is made the duty of the commissioner to enforce the laws against the adulteration of foods, drinks, and drugs, and to inspect any article of milk, butter, cheese, lard, syrup, coffee, or tea or other article of food, drink,or drug, made or offered for sale in the State which he may suspect to be impure, unhealthful, or adulterated,or counterfeit, and to cause to be prosecuted those manufacturing or selling such articles.

BOARDS.

Much of the business of the State is done through boards. The principal of these are the following:

15. **Trustees of State Library**—The justices of the Supreme Court and the attorney-general are *ex officio* trustees of the State library. They appoint a librarian to take charge of the library under rules and regulations prescribed by law. His salary is $2000.

16. **Commissioners of Public Lands**—The secretary of State, treasurer, and attorney-general are made commissioners of public lands, by the constitution (121, 122). They sell school and university lands, and see that the proceeds are kept safely invested.

17. **The Board of Regents of the University** of Wisconsin consists of fifteen members. Two—the State superintendent of education and the president of the university—are members, *ex officio*. The others are appointed by the governor for terms of three years,—one member from each of the ten congressional districts of the

State and two from the State at large. The appointed members are classified so that the terms of the members of some one class expire every year, and the other two classes hold over. The Board is intrusted with the government of the University of Wisconsin, at Madison.

18. **The Board of Regents of Normal Schools** consists of eleven members. Two—the governor and the State superintendent of education—are members *ex officio*. The others are appointed by the governor, by and with the advice and consent of the senate. The term of office is three years, and the members are classified in the same manner as the members of the Board of Regents of the University. This board is intrusted with the government of the normal schools of the State located at Platteville, Whitewater, Oshkosh, River Falls, Milwaukee and Stevens Point. The seventh school will be opened at West Superior in the city of Superior, in the fall of 1896. The state treasurer is *ex officio*, treasurer of both these boards.

19. **The State Board of Health and Vital Statistics** is composed of seven members appointed by the governor for seven years each. The term of one member expires each year. The law directs that this board shall "make sanitary investigation and inquiries respecting the causes of disease, especially epidemics, the causes of mortality and the effects of localities, employments, conditions, habits and circumstances, and shall diffuse such information among the people of the State." The board has an advisory relation to all local boards of health.

20. **Local Boards of Health.**—The organization of such local boards is made obligatory in every town, village, and city in the State. Every practicing physician is

compelled by law to report all cases of contagious diseases arising in his practice, to his local board. The local board must then report the cases to the State board.

21. Quarantine Rules—The State board has charge of all matters relating to general quarantine, and has authority to make rules and regulations for the protection of the public health, which it becomes the duty of all local and general officers of the State to respect and enforce. This machinery is well organized, and makes itself effective in the prevention of disease and the protection of the health and lives of the people.

22. Compensation—The members of the state board serve without pay. The secretary receives a salary fixed by the board. Members of local boards also serve without pay, except that the health officer receives a salary fixed by the local authorities.

23. Annual Appropriation—The State makes an annual appropriation of $5,500 to defray the expenses of the board.

24. The Commissioners of Fisheries constitute a board consisting of eight members, composed as follows:

a. The governor while in office.

b. Six commissioners to be appointed by him, and with the consent of the senate.

c. The professor of zoology in the University of Wisconsin, for the time being, shall be, *ex officio*, a member of said commission. The six appointed members hold office for six years each, one member going out of office each year.

25. Powers and Duties—The powers and duties of the commission are, in part, as follows:

a. The propagation and breeding of fish.

b. The collection and diffusion of information about the propagation and preservation of fish.

c. The government and control of State hatcheries. There are two State hatcheries—one near Madison, for the hatching of brook trout, California trout and carp, the other at Milwaukee for hatching white-fish and wall-eyed pike. The legislature of 1895 provided for an additional hatchery to be located in the north half of the State, and increased the annual appropriation for the support of the work of the commission to $20,000. The new hatchery has been located at Bayfield.

d. Receiving of spawn and fry from the United States.

e. The right to take fish at all seasons of the year, from all public waters, for artificial propagation.

f. The preservation of fish and game, through the enforcement of the fish and game laws, and otherwise.

26. Superintendent of Fisheries—The commissioners appoint a superintendent of fisheries at a salary not to exceed $2,000. His duties are defined by law. He has charge of the hatcheries and the fish-car used in distributing fry.

27. State Fish and Game Warden—The governor is required by law to appoint a State fish and game warden, whose term of office shall be two years, and whose salary shall be $1,800, and necessary expenses. The State fish and game warden shall act as secretary to the commissioners of fisheries. He is clothed with very large powers in the enforcement of the fish and game laws, and in the confiscation of all nets, snares, traps and other contrivances used in the violation of the law. He and his deputies have power to execute all warrants and processes for the arrest of violators of the law, and

all sheriffs, constables, and police officers are by law required to arrest them when called upon to do so.

28. Deputies—The fish and game warden appoints such a number of deputies as the commissioners may deem necessary, but not to exceed two in each county.

29. Wisdom of the Policy of the State—Wisconsin is noted for the great number of its lakes, and streams of pure cold water. It has long been a favorite resort of the angler and the hunter. Thousands of people from outside of the State are attracted hither every summer. But, great as the fishing interests of the State are, from the standpoint of the sportsman, they are still greater as a source of food supply for the people. The State is very wise in caring for this important interest so thoroughly.

30. The State Board of Control consists of five members appointed by the governor and confirmed by the senate. The term of office is five years, and one member goes out of office each year. The salary is $2,000.

31. Powers and Duties—This board has control of all the State charitable and penal institutions, which are:

a. The State Hospital for the Insane, near Madison.

b. The Northern Hospital for the Insane, near Oshkosh.

c. The State Prison, at Waupun.

d. The Industrial School for Boys, at Waukesha.

e. The School for the Deaf and Dumb, at Delavan.

f. The School for the Blind, at Janesville.

g. The State School for Dependent Children, at Sparta.

32. School for the Feeble-Minded—The legislature of 1895 provided for an institution for the care, custody, and training of the feeble-minded, epileptic and idiotic

to be known as the "Wisconsin Home for Feeble-minded." This institution has been located by the board at Chippewa Falls. A liberal appropriation of $100,000 has been made for it.

33. Other Institutions Supervised by the Board—Besides the State institutions the board has under its inspection 4 semi-state institutions, 22 county insane asylums, 68 jails, 49 poor-houses, 50 private benevolent institutions, and 198 police stations and lockups.

34. The State Board of Pharmacy consists of five members, who must be resident pharmacists, appointed by the governor, for terms of five years. The governor is restricted in the choice of members, to pharmacists recommended to him by the Wisconsin Pharmaceutical Association. The association recommends three persons annually, and any one who has ever been recommended is eligible.

35. Powers and Duties—This board holds examinations, and grants licenses to pharmacists and pharmacists' assistants to sell poisons, drugs and medicines, and compound and dispense prescriptions. All other persons are forbidden by law, under heavy penalties, to engage in the business. A recent decision in an important test case, shows that the courts are disposed to construe the law prescribing the duties of this board with great strictness.

36. Compensation—The members of the board get $5 a day for all time actually spent in the performance of their duties.

37. The Board of Dental Examiners consists of five practicing dentists appointed by the governor for terms of five years. The duties of the board are similar to those of the State Board of Pharmacy. All persons

practicing dentistry must be licensed and registered. Licenses are obtained through examinations, held by the board, or upon diplomas of reputable dental colleges, submitted to the board. The members of the board are paid by fees collected from candidates examined.

38. The State Board of Examiners for Teachers' State Certificates consists of three members appointed annually by the State superintendent. It is the duty of the board to examine candidates for State certificates. The limited State certificate makes the holder a legally qualified teacher for the term of five years. The unlimited qualifies for life. The county superintendent's certificate qualifies for the office of county superintendent, and is a life certificate to teach. These certificates are issued by the State superintendent on the recommendation of the board. Holders of diplomas of State normal schools, colleges and universities, other than the Wisconsin normal schools and the University of Wisconsin, may submit their diplomas to the board, together with proof of good moral character and success in teaching. When it appears to the satisfaction of the board that the courses of study of these institutions are fully and fairly equivalent to similar courses of the Wisconsin State institutions, the diplomas may be countersigned by the State superintendent. Such countersignature makes them unlimited State certificates. Holders of the State certificates of other States obtained by examination, may, in a similar way, get their certificates countersigned. The members of the board get $5 a day for time actually spent in their duties.

39. Admission to the Bar—The State Board of Examiners for Admission to the Bar consists of five mem-

bers appointed annually by the Supreme Court. The certificate of the board licenses the holder to practice in the courts of Wisconsin. The members of the board are paid $10 a day for time spent in their duties.

40. The State Board of Deposits consists of the governor, the secretary of State, the treasurer, and the attorney-general. It is the duty of the board to designate banks in which the public funds may be deposited. Should any bank fail, the loss of the public money, if there is any, falls upon the State. Should any interest be paid, it accrues to the State.

41. State Board of Arbitration—A new board provided for by the legislature of 1895 is known as the State Board of Arbitration and Conciliation. It consists of three members appointed by the governor. One member must be an employer of labor, or selected by some association representing employers of labor. One must be selected by some labor organization and must not be an employer of labor. The third is appointed upon the recommendation of the other two, provided they agree. If they do not agree, the governor appoints without recommendation.

42. Powers and Duties—Whenever any controversy exists between any employer of labor and his employes, to the number of twenty-five, or more, and application is made by the employer, or by a majority of the employes, it becomes the duty of the board to visit the locality of the dispute, make careful inquiry into the cause thereof, hear all the parties in interest who may appear to give testimony, and advise what should be done to adjust the dispute. Decisions of the board must be in writing, and must be open to the public.

Decisions are binding upon the parties to the dispute for six months.

43. Local Boards—The law creating this board provides also for local boards of arbitration with powers similar to those of the State board.

44. Tribunals of Conciliation—The constitution provides for "tribunals of conciliation," and says that the legislature shall pass laws defining their powers and duties (94). This duty the legislature has so far failed to perform. It is quite certain that many lawsuits might be prevented, as well as many strikes and lockouts, with their resulting expense, suffering and hatred, by a spirit of conciliation in the beginning of the trouble. The constitutional provision seems a very wise one.

45. Board of Immigration—The governor, the secretary of State and three other persons appointed by the governor, constitute the Board of Immigration. The members serve without pay, but are allowed necessary traveling expenses. It is the duty of this board "to enhance and encourage immigration to this State." It has authority to collect and disseminate useful information concerning the climate, soil, product, population, and agricultural, mineral and other resources and advantages of the state. An annual appropriation of $5,000 is made for the work of the board.

CHAPTER XII.—JUDICIARY.

1. Impeachments—The provisions of the constitution in regard to impeachments and impeachment trials are copied from the United States constitution (Y. C. B., pp. 105, 106, 115). The framers of the constitution did

not even change the name "house of representatives" to "assembly"—a singular piece of carelessness (78).

2. **Definitions**—The terms used in the section on impeachments have been defined in Y. C. B., pp. 78 and 79.

3. **Who May be Impeached**—All the civil officers of the State may be impeached for corrupt conduct in office or for crimes and misdemeanors (78).

4. **Assembly Impeaches**—Impeachments are made by the assembly, but a majority of all the members elected must concur (78).

5. **Senate Tries Impeachments**—The senate tries all impeachments made by the assembly, but the members, when they organize as a court, must take a new oath, or affirmation, to try the case impartially and to decide according to the evidence. It requires the concurrence of two-thirds of the members present to convict (78). Upon conviction, the officer is removed from office, and may also be disqualified to hold office afterwards (78).

6. **Status of Officers Impeached**—When the governor or a judge is under impeachment, he is suspended from office until acquitted (70–78). Under the United States, all impeached officers perform the duties of their respective offices until convicted. The same rule holds in the State with the two exceptions just noted. The common presumption is that an accused person is innocent and that presumption holds until he is proved guilty. The people of Wisconsin demand, however, that their governors and judges shall be above suspicion.

7. **Who Presides**—The lieutenant-governor, being president of the senate, presides at impeachment trials, except when the governor is on trial (78). He is then

acting governor (70). Besides, he is an interested party in such a trial.

8. Punishment in Certain Cases—Should the offense for which the officer is tried be a criminal as well as a political offense, he may be indicted, tried, convicted, and punished, like any other criminal (78).

9. Impeachment Trial not a Criminal Prosecution—An impeachment trial is not a criminal prosecution. Conviction cannot be followed by fine or imprisonment, and the party convicted is beyond the reach of the governor's pardoning power (69). The offense is a political offense; the punishment is a political punishment.

10. One Case of Impeachment—In 1853, Judge Levi Hubbell, of the second judicial district, was impeached. After a protracted trial he was acquitted. No other case has ever arisen in the State.

11. Independence of State Judicial System—The State has a complete judiciary of its own independent of the United States system. The common belief that all cases may be appealed from the State Supreme Court to the United States Supreme Court is very erroneous. Three classes of cases may be so appealed. They are:

a. Where the validity of a treaty, or statute, or an authority exercised under the United States was called in question, and the decision of the State Court was against its validity.

b. Where the validity of an authority exercised under the laws of the State was called in question, on account of its being repugnant to the constitution, or laws of the United States and the decision of the State Court was in favor of its validity.

c. Where any United States right, privilege or im-

munity was claimed and the State Court denied the right, privilege or immunity.

In all other cases, the findings of the State Court are final, and the Federal Courts have no jurisdiction over them whatever.

CONCURRENT JURISDICTION OF THE STATE AND THE UNITED STATES COURTS

12. Jurisdiction—In nearly all the cases enumerated in Article III., Section 2, Clause 1 (Y. C. B., p. 116), of the United States constitution, the State Courts have jurisdiction concurrent with the United States Courts (Act of Congress, March 3, 1875).

13. Exceptions—The United States statutes enumerate the following classes of cases as constituting the exceptions to this concurrent jurisdiction. In these cases the Federal jurisdiction is exclusive:

a. All crimes and offenses against the United States.

b. All suits for penalties and forfeitures incurred under United States law.

c. All civil causes of admiralty and maritime jurisdiction.

d. All seizures under United States laws on land or on waters not within admiralty and maritime jurisdiction.

e. Patent right and copyright cases.

f. Bankruptcy cases, when there is a United States bankruptcy law.

g. All controversies of a civil nature where a State is a party except between a State and its citizens, or between a State and citizens of other States, or aliens.

14. Removal to Federal Courts—Although as we have seen, cases, as a rule, are not appealable from the State Courts to the Federal Courts, any case, over which the

two classes of courts have concurrent jurisdiction, begun in a State court may be removed, before trial, to the United States Circuit Court for the proper district. It can not be removed from the Federal Court to the State Court. The removal may be had on the petition of either party to the suit.

15. Both classes of Courts open to Litigants—This means that both the State courts and the United States Courts are open to litigants. When both parties consent, the case may be settled in the State Court. When the plaintiff begins the suit in the State Court and changes his mind, or when the defendant prefers the United States Court, the case may be removed and settled there. Should the plaintiff begin his suit in the United States Court, it must be tried there.

16. Wide Range of Laws Interpreted: Rules—It will be seen that judges of the State courts must often try cases arising under the United States constitution and laws, and that federal judges must often try cases arising under the State constitution and laws. In such cases, the state judges must interpret the United States Constitution and laws as interpreted by the United States Supreme Court, if that court has passed upon the question at issue. United States judges in trying cases under the State constitution or laws, almost always follow the decision of the State Supreme Court if that court has passed upon the question at issue.

17. A Case Supposed—For example, a suit brought in a Circuit Court of Wisconsin, by a citizen of Illinois, for the recovery of a debt of $5000 or more, upon being removed to the United States Circuit Court for the proper district, would be tried according to the laws of Wisconsin. If judgment should be for the plaintiff,

the defendant citizen of Wisconsin would be entitled to all the exemptions from execution granted by the statutes of Wisconsin.

18. Harmonious Relations—In no other department of government have the interrelations of State and Federal authority been so carefully and perfectly adjusted as in the judicial.

EXCLUSIVE JURISDICTION OF STATE COURTS

19. Not all cases Triable in United States Courts—The State Courts have jurisdiction exclusive of the Federal Courts,of all cases not made triable in the Federal Courts, by the United States Constitution (Y. C. B. pp. 183, 184, 198). These cases cover a very wide range, arising as they do under the constitution and laws of the State, both common and statute, and embracing all the innumerable differences that arise between man and man.

THE STATE JUDICIAL SYSTEM

20. The Judicial Power of the State is vested in (a), the Supreme Court, (b) seventeen Circuit Courts, (c) two Superior Courts, one in Milwaukee and one in Superior, (d) County Courts, one in each county, (e) Municipal Courts, and (f) Justices' Courts (79).

21. The Supreme Court—The Supreme Court is composed of five justices (81) elected by the people in the spring for a term of ten years. The term of one justice expires every two years. The justice having been longest a continuous member of the Court (or, in the case of two or more such senior justices having served for the same length of time, then the one whose commission first expires), shall be *ex officio* the chief justice (82). The salary is $5000.

22. **Jurisdiction**—The Supreme Court has appellate jurisdiction only, except in suits against the State and in issuing original and remedial writs (80) such as *habeas corpus* (Y. C. B., p. 88) *mandamus*, *injunction*, *quo warranto*, and *certiorari*.

23. **Names of Writs**—These writs are named from the words with which they used to begin in the days when they were written in Latin.

24. **Mandamus**—Mandamus means literally we command. It is a written order of a Court commanding certain things to be done. It is addressed to those whose duty it is to do the things commanded. For example, a public officer might refuse to surrender the books and records of his office, to his successor. A proper procedure for the newly elected officer to adopt would be to apply for a writ of mandamus addressed to his predecessor. The writ would put him in possession of the office and all the books and papers belonging to it.

25. **Injunction**—An injunction is defined to be a writ framed according to the circumstances of the case, commanding an act which the court regards as essential to justice, or restraining an act which it esteems contrary to equity and good conscience (Am. Cyc.). A sues B and gets judgment against him. B afterwards finds among his papers a receipt in full for the very debt for which A sued him. In such a case the Court would enjoin A from executing his judgment, if there were no relief for B, in law. Publishers may be enjoined from publishing private letters or papers. Holders of property may be enjoined from disposing of it while the ownership of it is being determined by judicial proceedings.

26. **Certiorari**—Certiorari is a writ issued by a higher

court to a lower court, compelling the lower court to send up its record of the case in question, tried, or pending, in that court. The writ is obtained upon the complaint of a party that he has not obtained justice or cannot have a fair trial in the lower court. The higher court tries the case according to the facts shown in the record sent up. The name comes from the words *certiorari volumus* with which the Latin form of the writ opens. The words mean we wish to be certified.

27. **Quo Warranto**—Quo warranto (by what authority) is a writ, brought before a proper tribunal, to inquire by what warrant a person or a corporation acts, or exercises certain powers (Blackstone). In the case supposed under *mandamus* the newly-elected officer might have proceeded against his predecessor by quo warranto. In that case his predecessor would have been compelled to appear before the court and show by what authority he held his office. If unable to show his right to the office he would have been ousted.

28. **Powers Defined**—"That portion of this section empowering the Supreme Court to issue writs, was designed to give it original jurisdiction, in all judicial questions affecting the sovereignity of the State, its franchises and prerogatives, or the liberties of the people" (35 Wis. 425). The court does not exercise this authority in ordinary cases.

29. **Terms of Supreme Court**—The Supreme Court meets twice a year at Madison in the capitol, during the months of January and August.

30. **Qualifications of Judges**—Judges of the Supreme Court must be at least twenty-five years of age, citizens of the United States, and qualified electors within their jurisdictions. They receive no fees, and are ineligible

for all offices of public trust except judicial offices (88).

CIRCUIT COURTS

31. One Judge for each Circuit—There is a judge for each circuit, chosen by the people at the spring elections (85).

32. Term—The term of office is six years, beginning on the first Monday in January succeeding the election.

33. Salary—The salary is $3600 with $400 additional to defray traveling expenses.

34. Qualifications—The circuit judges, after their election, must reside within their respective jurisdictions, and must have all the qualifications of justices of the Supreme Court (85, 88).

35. Eligibility of Judges to Election to Congress—All votes cast for a judge of the Supreme, or the Circuit Court, by the legislature or the people for any office other than a judicial one, are void (88). In spite of this provision, the people have in several cases, elected circuit judges to the house of representatives, and they have always been admitted by that body. Of course, they had to resign their judgeships. The United States Constitution makes each house the judge of the elections returns and qualifications of its own members (Y. C. B., p. 107). It also fixes the qualifications for membership in each house (Y. C. B., pp. 105, 106). The State cannot modify these constitutional requirements. So this part of our constitution is void, so far as the offices of United States Senator or Representative are concerned.

36. Jurisdiction—The Circuit Courts have original jurisdiction in all matters civil and criminal, within the State, not excepted in the constitution and not pro-

hibited by law. They have appellate jurisdiction and supervisory control, over all the inferior courts of the State. They have power to issue all the original and remedial writs which the Supreme Court has power to issue (86).

37. Terms—The terms of the Circuit Court are held at the county seats of the different counties. There must be two terms a year in each county, and there may be more.

38. Judges may Hold Court for Each Other—It may happen that a judge is an interested party in a suit entered for trial in his court, or he may be sick at term time. For these, and similar reasons, judges may hold court for each other (89).

39. Removal by Address—We have seen that judges may be removed from office by impeachment. They may also be removed by address of both houses of the legislature, but two-thirds of all the members elected to each house must concur. The judge must be served with a copy of the charges against him, and must be given the right to defend himself. On the question of removal, the ayes and noes must be entered on the journal (91). This is a summary way of removing a bad judge.

40. Address made to Governor—The address is made to the governor. On the receipt of the address, the governor removes the judge and appoints some one in his place to hold the office until his successor is elected and qualified (87).

SUPERIOR COURTS

41. Superior Court of Milwaukee County—Superior courts have been established in Milwaukee and West

Superior, for the counties of Milwaukee and Douglas. The Superior Court of Milwaukee county "shall exercise powers and jurisdiction in all civil actions and proceedings in law and equity," with some important exceptions, concurrent with and equal to the jurisdiction of the Circuit Court for that county.

42. Superior Court of Douglas County—The Superior Court of Douglas county has powers and jurisdiction concurrent with the Circuit Court of Douglas county in both criminal and civil matters, with some exceptions and limitations.

43. Authority for these Courts: Powers—The authority for the creation of these courts is found in the constitution (79).

COUNTY COURTS

44. Authority for County Courts: Powers—The constitution provided for courts of probate in each county, but it gave the legislature power to abolish these courts and to confer probate powers upon such inferior courts as may be established in each county (92 and 79). The legislature has exercised this power. It has created county courts and conferred all probate powers upon them. The county courts have been spoken of in Chapter VIII.

MUNICIPAL COURTS

45. Municipal Courts: Powers—There are municipal courts in Milwaukee, Madison, Oshkosh, Eau Claire, and many of the other important cities of the State. They are created by the legislature in accordance with powers conferred by the constitution (79). The number of these courts is rapidly increasing, no fewer than

five having been created by the legislature of 1895. Many of them have jurisdiction co-extensive with the counties in which they are situated. The constitutional limit of their jurisdiction in their municipalities is the jurisdiction of the Circuit Courts in their respective circuits (79). Within this limit the powers of these courts vary widely. They are determined in each case by the act of the legislature creating them.

JUSTICES' COURTS

46. Powers—Justices' courts are provided for in towns, incorporated villages and cities. The powers and duties of justices of the peace have already been mentioned in Chapter IX.

CHAPTER XIII.—FINANCE

1. Property Taxable: Uniform Taxation—The constitution authorizes the legislature to prescribe what property shall be taxed, and provides that the rule of taxation shall be uniform (102). The instructions to assessors are uniform throughout the State, and town, county, and State boards of equalization are provided for by law. By these means substantial uniformity is secured. This means that the rate of taxation for State taxes shall be uniform throughout the State, and that the rate for county, city, town and school district taxes shall be uniform in the county, city, town, or school district. It does not mean that the rate shall be the same for purposes of local taxation in any two counties, cities, towns, or school districts. The fact is, that the rate of local taxation differs very widely in different places.

2. **No Moneys Paid out except in Pursuance of an Appropriation**—The State treasurer is forbidden to pay out any money except in pursuance of an appropriation by law.

3. **Limits for Claims**—The legislature is forbidden to make any appropriation for the payment of claims against the State unless they are filed within six years after they accrue. Claims of the United States and judgments against the State are excepted (103).

4. **Secretary of State Auditor**—The secretary of State is, *ex officio*, auditor. He requires the claimant in presenting his claim to state the legislative provision authorizing its payment.

5. **State Credit**—The credit of the State shall never be given or loaned in aid of any individual, association, or corporation (104). This is a limitation upon the State. It does not deprive the legislature of power to authorize municipalities to contract debts. There is no such limitation as this upon the power of the United States. Experience has proved that the policy of the State in this respect, is wiser than the policy of the United States.

6. **Restrictions upon the Power of Incurring Debt.**—The State is forbidden to contract any public debt, except to the extent of one hundred thousand dollars, to defray extraordinary expenditures (107). It may also borrow money to pay the expenses of a defensive war to suppress insurrection. (108).

7. **Expenses, how met.**—The estimated expenses of each year must be met by a State tax for that year. If, for any cause, the expenses exceed the income, the deficit must be made up the following year (106).

8. **Specific Restrictions.**—The State is expressly forbid-

den to incur any debt for works of internal improvement, or even to be a party in carrying on such works. It may act as trustee and carry on works of internal improvement, for which a grant of lands, or other property has been made to it, and may anticipate the revenues therefrom (111). The Supreme Court has held this prohibition to be absolute. A judgment against the State for services in defending agents of the State, appointed by it to protect lands granted to it, to aid in the construction of railroads is declared to be a debt within the meaning of this section.

9. State Credit.—No State in the Union has better credit or higher financial standing than Wisconsin. The State debt is in the form of certificates of indebtedness to the trust funds. It amounted to $2,251,000. Sept. 30, 1894. This indebtedness means, simply, that the State has borrowed the sum named from the trust funds and pays interest upon it. In this way the funds are safely invested, and the interest is available for the support of the objects for which the funds were created.

Chapter XIV.—Trust Funds

The principal trust funds of the State are

1. The School Fund—This fund is composed of: (a) The five hundred thousand acres of land given by congress in aid of the Rock River canal, and, afterwards, by the consent of congress, transferred to this fund; (b) section sixteen in each township; (c) all moneys accruing to the State by forfeiture and escheat; (d) all penalties for trespass on school lands; (e) all unspecified grants to the State; (f) all fines collected in the several counties for breach of penal laws; (g) all moneys paid

as an exemption from military duty; (h) five per cent. of the net proceeds of sales of United States public lands.

2. **Amount**—This fund, Sept. 30, 1894, amounted to $3,418,760.25 with 47,381.47 acres of land still unsold.

3. **How Invested**—This fund is kept invested (121) and the interest and all other revenues derived from it are devoted to the support and maintenance of common schools in each school district, and the purchase of suitable libraries and apparatus therefor (116). The residue shall be appropriated to the support and maintenance of academies and normal schools, and suitable libraries and apparatus therefor (116).

4. **The Mill Tax**—In order to equalize more perfectly the burden of supporting the common schools, the legislature of 1885 provided for an annual State tax of one mill on the dollar.

5. **Income and Proceeds of Mill Tax**—The income from the proceeds of the mill tax, and the interest from the invested fund, together, aggregated $862,716.40 for the fiscal year ending Sept. 30, 1894.

6. **Income How Distributed**—The amount of school fund income and mill tax in the hands of the State treasurer on the first day of June, is annually certified to the State superintendent. The State superintendent then distributes the money among the several towns and cities of the State, for the support of common schools therein, in just proportion to the number of children of school age resident therein (119). In order to share in this money each town and city must raise by local taxation annually, a sum equal to its share of the State school moneys, and each school district must maintain a school for at least six months (118,119 and Sec. 554, An. Stat).

7. Local Taxation for Schools—The principal school tax is raised in each district by local taxation.

8. Township Library Law—By recent legislation the town treasurer of each town is required to withhold annually from the State school moneys in his hands, the sum of ten cents for each child of school age in his town. The town clerk, then, with the advice of the county superintendent, expends the money thus withheld in purchasing books for a township library, from a printed list prepared by the State superintendent. The books are then distributed among the several school districts of the town. From time to time they are collected and re-distributed. The township library law, as it is called, is working admirably. It is hoped that soon the very best literature will be accessible to every child in the State. By this act the legislature has used, for the first time, its constitutional authority to apply a part of the income of the school fund for the support of school libraries (116).

9. Academies and Normal Schools not Supported by this Income—No part of the income is used for the support of academies or normal schools.

NORMAL SCHOOL FUND

10. Origin of Fund—By Act of Congress approved Sept. 28, 1850, the United States granted to the State all swamp and overflowed public lands within its boundaries. The State has divided the proceeds of the sales of these lands equally into two funds, called the drainage fund and the normal school fund. The drainage fund is expended in draining and reclaiming the swamp lands and in constructing roads and bridges over them.

11. **Normal School Fund.**—The normal school fund is not expended. On Sept. 30, 1894, it amounted to $1,827,447.46, with 211,911.91, acres of land unsold. Like the school fund, it is kept invested by the school-land commissioners, and the interest is available for the support of the normal schools under the administration of the Board of Regents (p.147). The legislature of 1895 made a permanent annual appropriation of a tax of one-fifth of a mill on each dollar of taxable property in the State. The total income for the year ending Sept. 30, 1894, was $162,131.08.

UNIVERSITY FUND

12. **Origin of Fund**—The University of Wisconsin is provided for in the constitution. The proceeds of all lands granted to the State by the United States for University purposes form a perpetual fund known as the "University Fund" (120).

13. **State Tax**—By chap. 300, laws of 1883, an annual State tax of one-eighth of one mill on the dollar, is provided for, and by chap. 241 laws of 1895 a similar additional tax of one-tenth of a mill is levied.

14. **Amount of Fund**—On Sept. 30, 1894, the fund amounted to $230,663, with 937.4 acres of land unsold.

15. **Amount of Income**—The income of the fund, including the proceeds of the permanent State tax, and some large special appropriations for building purposes and the purchase of real estate, amounted to $470,073,72 for the year ending Sept. 30, 1894.

AGRICULTURAL COLLEGE FUND

16. **Origin**—By Act of Congress approved July 2, 1862, two hundred and forty thousand acres of land were granted by the United States, to the State, for the pur-

pose of supporting an institution of learning, "where shall be taught the principles of agriculture and mechanic arts." The University of Wisconsin undertook the trust of maintaining such a school, and the College of Agriculture is now one of the colleges of the University.

17. **Amount of Fund**—Sept. 30, 1894, this fund amounted to $302,355.72 with 243.07 acres of land unsold.

18. **Amount of Income**—The income for the year ending on that date was $27,828.96.

Chapter XV. Education.

1. **District Schools**—The Constitution directs the legislature to provide by law for the establishment of district schools. These schools must be free to all children between the ages of four and twenty, and no sectarian instruction shall be allowed therein (117).

2. **District System**—There are about a thousand organized towns in the State. These towns have been divided into school districts, and the people of each district control their own school subject to the general laws of the State. Annually, on the first Monday of July, the people of the district meet to elect officers and legislate in school matters for the coming year. Women as well as men are allowed to vote.

3. **District Board**—The district board consists of three members, director, treasurer and clerk, elected for three years, one member going out of office each year. The board engages legally qualified teachers, selects textbooks, makes rules and regulations for the government

of the school, and has general control of the school, and the district property.

4. **Branches Taught in the Schools**—The branches that must be taught are prescribed by law—reading, orthoepy, writing, spelling, grammar, arithmetic, geography, Constitution of the United States, Constitution of the State, and physiology and hygiene with reference to the effects of stimulants and narcotics on the human system. Such other branches may be added as the school board may determine.

5. **Township System**—Any town may adopt the township system, that is, the system in which all the schools of the town are under one town board. A few towns are so organized for school purposes. There is a good deal of public sentiment in favor of making this permissory law compulsory and the legislature of 1895 has taken steps to secure information as to the advisability of effecting that end.

GRADED SCHOOLS AND HIGH SCHOOLS

6. **Two Classes of Free High Schools**—In the cities and villages there are systems of graded schools, and free high schools. The free high schools, however, are of two classes: first, those in country places, where there are no graded schools, and second, those in larger places where there are graded schools.

7. **State Allowance**—The State makes an annual appropriation of $25,000 for the support of each of these classes of schools.

8. **How Controlled**—The law passed to encourage the organization of free high schools in country places has proved an almost total failure. Those in connection with graded schools are very flourishing and in high

popular favor. They are controlled, usually, by boards of education and city superintendents.

9. High School Inspector—These schools are under the official inspection of a state officer, called the Inspector of Free High Schools. The inspector is appointed by the State superintendent and is really one of his assistants.

10. Courses of Study—The courses of study must be approved by the State superintendent. In most of the schools the courses are four years long.

11. Principals and Assistants—Principals of free high schools having four-year courses, must hold the unlimited state certificate, or some equivalent qualification. Assistants must have their certificates approved by the State superintendent.

12. Accredited Schools—The University of Wisconsin and the State Normal Schools have regulations, under which high school graduates may be permitted to enter these higher institutions without entrance examinations. No schools are accredited, until it has been shown to the satisfaction of the university or normal school authorities, that they are doing thorough work.

13. Privileges of Graduates—Free high school diplomas from four-year courses may be countersigned by the county superintendent after the holder has taught in the public schools, successfully, on a first grade County certificate for one year. This counter-signature makes the diploma a first-grade certificate.

14. Other High Schools—There are a few high schools in the largest places,—Milwaukee, La Crosse, Superior, and a few others,—that do not participate in the State aid and are not under the supervision of the State inspector.

NORMAL SCHOOLS

15. Special Function—The Normal Schools have already been mentioned. Their special function is to fit young men and women for the work of teaching in the public schools of the State.

16. Two Courses : Elementary Course—They have two courses,—1st an elementary course of two and a half years. Those who complete this course receive a certificate, qualifying them to teach in the public schools of the State for one year. After one year's successful teaching, the certificate may be countersigned by the state superintendent. This countersignature makes the certificate a State certificate for five years. The school at Milwaukee does not have this course.

17. Advanced Course—2d. An advanced course of two additional years. Those completing this course receive a diploma, qualifying them to teach in the public schools of the State for one year. After one year's successful teaching the diploma may be countersigned by the State superintendent with the effect of making it a State certificate for life.

18. Prosperity of these Schools—These schools are all in very flourishing condition. The number of persons graduating is yearly increasing, and the services of the graduates are in great demand in the public-school service.

19. Institute Conductors—At each of these schools there is one teacher known as the institute conductor, whose business it is to hold institutes, for the instruction of teachers, under the direction of the Board of Regents of Normal Schools. Besides these conductors, many other persons are annually employed in this service. The amount spent is about $8000 annually.

UNIVERSITY OF WISCONSIN

20. **Growth : Location : Buildings : Equipments**—The University of Wisconsin has been growing very rapidly. It is beautifully located on the banks of Lake Mendota, in the city of Madison. It has fine, commodious modern buildings well adapted to its purposes. It is unusually well supplied with libraries, gymnasiums, laboratories, and museums.

21. **Faculty**—It has about a hundred professors, and instructors, and over fifteen hundred students.

22. **Organization**—It is organized into :—

a. The College of Letters and Science.

b. The College of Mechanics and Engineering.

c. The College of Agriculture.

d. The College of Law.

e. The School of Pharmacy.

f. The School of Economics, Political Science and History.

g. The Summer School.

h. The School of Music.

i. The University Extension Department.

23. **Original Research**—Two departments are devoted almost exclusively to original research, the Washburn Observatory, and the Agricultural Station. A great amount of original work is done in other departments.

24. **Institute Lectures**—One of the professors—the professor of pedagogy—is employed during the teachers' institute season, in lecturing at these gatherings.

25. **University Extension**—The University Extension Department brings many of the benefits of the University to the people of the State.

26. **Farmers' Institutes**—Under the charge of the Uni-

versity, there is a very flourishing system of farmers institutes. The work is under the direction of a superintendent. He is aided by conductors specialists in the various branches of farming.

INSTITUTIONS NOT UNDER STATE CONTROL

27. **Private Institutions**—Besides the State institutions there are many others in the State, supported mostly by the various churches, Beloit College, Ripon College, Milton College, and Lawrence University, St. Clara's Academy, German-English Academy, Milwaukee Academy and Downer College, Wayland Academy, Northwestern University and many other institutions that might be mentioned, are doing good work for the youth of the State, and well deserve the high reputation they enjoy.

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